

To: [redacted] **Administrator** Kaplan,
Robert[kaplan.robert@epa.gov]; Beauvais, Joel[Beauvais.Joel@epa.gov]; Meiburg,
Stan[Meiburg.Stan@epa.gov]; Burke, Thomas[Burke.Thomas@epa.gov]
Cc: Fritz, Matthew[Fritz.Matthew@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]
From: Fried, Becky
Sent: Tue 2/16/2016 11:47:27 PM
Subject: Draft Town Hall remarks - As prepared
02 17 2016 GM - Town Hall - Outlinegm_AS PREPARED v2.docx

All –

Attached are draft prepared remarks for the Town Hall tomorrow, in scripted form. The Administrator asked me to share with this group for review.

Please send any edits tonight if you can. Stan, I saw that you already separately shared comments on the outline, I can incorporate those.

Thanks very much,

Becky Fried

Director of Speechwriting

U.S. Environmental Protection Agency

O: 202.564.0960

M: [redacted] Ex. 6 - Personal Privacy

fried.becky@epa.gov

To: Administrator
From: Purchia, Liz
Sent: Tue 2/16/2016 5:28:53 PM
Subject: FW: Wind power installations top solar, natural gas in 2015

From: POLITICO Pro Energy Whiteboard [mailto:politicoemail@politicopro.com]
Sent: Tuesday, February 16, 2016 12:28 PM
To: Purchia, Liz <Purchia.Liz@epa.gov>
Subject: Wind power installations top solar, natural gas in 2015

By Esther Whieldon

02/16/2016 12:22 PM EDT

The U.S. added 8.6 gigawatts of wind power capacity in 2015, outpacing new installations of both solar power and natural gas, the American Wind Energy Association announced today.

AWEA CEO Tom Kiernan noted that a significant amount of new wind installations were prompted by power purchase agreements with commercial and industrial clients.

The 2015 wind power installations represented a 65 percent increase from 2014 levels, according to data in a Bloomberg New Energy Finance report released earlier this month.

In a press briefing today, AWEA officials pointed to the two-thirds drop in wind power costs over the past six years, and said that even with the Supreme Court ruling that put EPA's Clean Power Plan on hold, the industry's growth would not be dramatically curtailed.

Still, AWEA officials said they expect that the CPP will withstand the legal challenges.

The wind industry in December won a five-year extension and phase out of federal production tax credit incentives.

The industry will continue to focus on driving down costs through economies of scale and production and technology improvements, said Chris Brown, the incoming AWEA board chairman and president of Vestas Americas.

To view online:

<https://www.politicopro.com/energy/whiteboard/2016/02/us-added-86-gw-wind-in-2015-067513>

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This email was sent to purchia.liz@epa.gov by: POLITICO, LLC 1000 Wilson Blvd. Arlington,
VA, 22209, USA

To: Administrator
From: Fried, Becky
Sent: Tue 2/16/2016 4:27:29 PM
Subject: RE: Outline for Town Hall
02 17 2016 GM - Town Hall - Outline.docx

Here it is. We have some time to discuss this at 12:30.

I can fill in/add more as you like.

Becky Fried

Director of Speechwriting

U.S. Environmental Protection Agency

O: 202.564.0960

M: Ex. 6 - Personal Privacy

fried.becky@epa.gov

From: Administrator
Sent: Tuesday, February 16, 2016 11:26 AM
To: Fried, Becky <Fried.Becky@epa.gov>
Subject: Outline for Town Hall

Can you send it to me electronically. It was a great start.

To: [redacted] **Administrator**; Meiburg, Stan[Meiburg.Stan@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]
Cc: Rupp, Mark[Rupp.Mark@epa.gov]; Scaggs, Ben[Scaggs.Ben@epa.gov]; Ragland, Micah[Ragland.Micah@epa.gov]; Pieh, Lusenii[Pieh.Lusenii@epa.gov]; Vaught, Laura[Vaught.Laura@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Herckis, Arian[Herckis.Arian@epa.gov]; Thomas, Deb[thomas.debrah@epa.gov]
From: McGrath, Shaun
Sent: Mon 2/15/2016 5:52:17 PM
Subject: Weekend Report from R8

Weekend Report from R8

Not Responsive

Not Responsive

Montana and CPP -- I met last week with Tim Baker, who is the point person in Gov. Bullock's office on CPP. We had planned to discuss Regional Haze and CPP, however, as the meeting happened the day after the Supreme Court stay, we focused instead on Regional Haze.

Ex. 5 - Deliberative

Sent from my iPad

To: **Administrator**
From: Mitchell Hescox
Sent: Fri 2/12/2016 6:53:20 PM
Subject: A PA Op-ED for your Reading

http://www.pennlive.com/opinion/2016/02/the_supreme_court_cant_halt_a.html

The Supreme Court Can't Halt A Brighter Clean Energy Future For Our Kids

The Rev. Mitchell C. Hescox

This week five men on the Supreme Court placed a pause on the Environmental Protection Agency's (EPA's) regulation of carbon pollution, known as the Clean Power Plan, by staying the regulation until the court process is completed, presumably by the Supreme Court itself in 2017. However, just because these five men say "stay," that won't stop the march toward a clean energy future for our kids. We ain't stopping nothing.

Indeed, days before these five men said "stay," we at the Evangelical Environmental Network (EEN) said "go," by announcing our Pro-Life Clean Energy Campaign, through which we will rally half a million pro-life Christians to demand our country have 100% clean electricity by 2030. The public here in Pennsylvania is already with us even before we get started. Eighty-Two percent of Pennsylvanians support a clean energy future and among them are at least 67,000 prolife Christians already working with us who demand a pollution-free future our children and grandchildren. What we're fighting for is what our nation's founders proclaimed in Philadelphia in 1776: life, liberty, and the pursuit of happiness. We want their lives liberated from pollution so they can be healthier and happier as they create their own futures.

Unfortunately, reaching those goals has been made difficult by fouled air and dirty water that impacts both our unborn and born babies. As pro-life evangelicals, we have a special concern for the unborn. We want children to be born healthy and unhindered by pollution that impacts them even before they take their first breath. The medical community has long known of the environmental impacts on our unborn children. Recent medical studies from the University of Pittsburgh and Colorado School of Public Health link low birthweight and birth defects to methane production. According to the American Lung Association our state has over 277,000 children suffering from asthma, and almost 28,000 live in the York – Harrisburg Area. Our region's air exceeds limits for both ozone (smog) and particulates (soot) emissions, making our task urgent, especially as climate change's warming temperatures makes it even harder for asthma victims to breathe. There's simply no way for Pennsylvania's air quality to improve and defend our kids'

opportunity for a healthy life and future unless we continue our March towards a clean energy economy.

Let's be honest: coal is dead. Pennsylvania has less than 7000 workers left in the coal industry while renewal energy jobs across the country are soaring, 23% increase in 2015. Solar employs more workers alone than the coal industry in the United States and renewables may soon surpass all fossil fuels jobs. According to Bloomberg Business, the the Supreme Court's stay "won't save coal from a shrinking market."

Even without the Clean Power Plan, coal is simply not cost effective. Between cheap natural gas and renewable energy prices falling, coal, if it ever was a bargain, is certainly not one today. Especially if you add in the \$0.11 – 0.13 per kilowatt price of coal's external cost borne primarily in the lungs and brains of our children. According to Bloomberg, JPMorganChase, Xcel Energy, and Appalachian Power, coal day's is over and renewables have reached their tipping point.

As we state in our Pro-Life Clean Energy Campaign:

We have a once-in-a-generation opportunity to transform how we create electricity for our homes and businesses – not with the old, dirty, outdated, wasteful approaches from the past, like coal-burning power plants run by state-sanctioned monopolies – but with clean, new, innovative approaches like those powered by wind and by sunshine, such as rooftop solar, owned by families and individuals.

We are asking our elected officials to do what's right, stand up to utility monopolies protecting their profits at our expense, and defend the right of families, individuals, communities, and businesses to help set us free from pollution by creating our own clean electricity and selling what we don't need to others.

Given this, we are pleased that Governor Wolf appears to be continuing to move forward on a clean energy future. John Quigley, head of Pennsylvania's Department of Environmental Protection, assured me that "Pennsylvania will continue planning and engagement with stakeholders on the Clean Power Plan, pending final decision of this issue by the Supreme Court."

The march for a pro-life clean energy future won't be stopped by these five men saying "stay." Just as a mountain stream can't be stopped by a fallen tree across its path, clean energy will make its own route, becoming a mighty river of righteousness cleansing our future.

The Rev. Mitchell Hescox is President/C.E.O. of The Evangelical Environmental Network and Lives in York County

Mitch
The Rev. Mitchell C. Hescox
President/CEO
Evangelical Environmental Network
Pennsylvania Office:
24 East Franklin Street
New Freedom, PA 17349

Ex. 6 - Personal Privacy (l)

202- 903-0209

mitch@creationcare.org

follow me on Twitter: https://twitter.com/mitch_at_EEN

Financial Office:
Evangelical Environmental Network
9365 Counselors Row
Suite 200
Indianapolis, IN 46240

Creation Care: It's A Matter of Life

On the web: <http://creationcare.org>, <http://christiansandclimate.org>

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To: Administrator
From: Purchia, Liz
Sent: Thur 2/11/2016 11:29:49 PM
Subject: FW: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

Here are the remarks from the President today from the WH press pool.

From: White House Press Office [mailto:noreply@messages.whitehouse.gov]
Sent: Thursday, February 11, 2016 4:43 PM
To: Purchia, Liz <Purchia.Liz@epa.gov>
Subject: Fw: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

From: Nakamura, David [mailto:David.Nakamura@washpost.com]
Sent: Thursday, February 11, 2016 01:40 PM
To: Gabriel, Brian; Allen, Jessica
Subject: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

In remarks at the DNC fundraiser, Obama offered his first public reaction to the Supreme Court's decision to stay the EPA's Clean Power Plan:

"The Supreme Court did something unusual this week. The centerpiece of our climate action plan involves working with states like California to come up with a strategy for reducing their carbon emissions... We do so under the clean air act, which the Supreme Court says requires the Environmental Protection Agency to regulate carbon emissions if we can show, as science has clearly shown, damage to public health. We are very confident we are on strong legal footing here.. ... But the Supreme Court issued a stay ...

"One of reasons I want to talk about this is because in the last couple of days I've heard people say, 'The Supreme Court struck down the clean power plant rule. That's not true, so don't despair people. This a legal decision that says, 'Hold on until we review the legality.' We are very firm in terms of the legal footing here...

"But the reason I bring this up now is to underscore fact this i going to be an enormous generational challenge; there are going to be people constantly pushing back and making sure we keep clinging to old dirty fuels and a carbon-emitting economic strategy that we need to be moving away from.

"We need to be investing in the future, not the past. Instead of subsidizing ... the oil industry, we should be investing in solar and wind and battery technology--all the things that promise us we can generate enormous power without destroying the planet for our kids and grandkids."

"I could not be prouder of our efforts to mobilize 200 nations around the world to say, 'This is a problem.' ... That's the essence of American leadership but that American leadership depends on us, depends on an administration that believes in science, for example."

That's it on the climate stuff. but more to come on his remarks in later report.

-30-

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The White House · 1600 Pennsylvania Avenue, NW · Washington DC 20500 · 202-456-1111

To: Administrator
From: Purchia, Liz
Sent: Thur 2/11/2016 10:13:38 PM
Subject: Fwd: Obama: Don't 'despair' over Supreme Court stay of carbon rule

Liz Purchia
 U.S. EPA
 202-564-6691

Ex. 6 - Personal Privacy

Begin forwarded message:

From: POLITICO Pro Energy Whiteboard <politicoemail@politicopro.com>
Date: February 11, 2016 at 5:08:51 PM EST
To: <purchia.liz@epa.gov>
Subject: **Obama: Don't 'despair' over Supreme Court stay of carbon rule**
Reply-To: POLITICO subscriptions <reply-fe9c117175640c7f76-622737_HTML-637926884-1376319-0@politicoemail.com>

By Alex Guillén

02/11/2016 05:05 PM EDT

President Barack Obama today said not to "despair" over the Supreme Court's decision to stay EPA's Clean Power Plan, although he admitted the move was "unusual."

"In the last couple of days I've heard people say, 'The Supreme Court struck down the clean power plant rule.' That's not true, so don't despair people," Obama said at a Democratic National Committee fundraiser in California.

"This a legal decision that says, 'Hold on until we review the legality.' We are very firm in terms of the legal footing here," Obama added, according to a pool report.

Obama noted that the Supreme Court has already ruled that EPA has the obligation and the authority to regulate greenhouse gases.

And he added that climate change is "an enormous generational challenge" and "there are going to be people constantly pushing back and making sure we keep clinging to old dirty fuels and a carbon-emitting economic strategy that we need to be moving away from."

"We need to be investing in the future, not the past," Obama said. "Instead of subsidizing ... the oil industry, we should be investing in solar and wind and battery technology - all the things that promise us we can generate enormous power without destroying the planet for our kids and grandkids."

And Obama touted the December climate deal the U.S. helped cinch in Paris.

"That's the essence of American leadership, but that American leadership depends on us, depends on an administration that believes in science, for example."

To view online:

<https://www.politicopro.com/energy/whiteboard/2016/02/obama-dont-despair-over-supreme-court-stay-of-carbon-rule-067431>

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To: Administrator
From: Wachter, Eric
Sent: Thur 2/11/2016 4:43:58 PM
Subject: FW: Update on the Clean Power Plan

From: Tyler, Tom
Sent: Wednesday, February 10, 2016 5:43 PM
To: McCarthy, Gina <McCarthy.Gina@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>
Subject: Fw: Update on the Clean Power Plan
Importance: High

Dear Gina and Janet,

I'm sorry about the court's action but am hopeful they'll see the light and allow this critical work to continue. I'm so proud of the Agency's effort and deeply appreciative of the roles each of you, and your amazing teams, have played and are playing. I was happy to have a tiny part in it working with the states at ECOS and I am thinking of you all.

No need to reply: I know you're swamped. I am looking forward to seeing more of both of you when I relocate to OP/OSEM later this month and join them fully after the G7 workshop in March.

All the best to you,

Tom

Thomas Loy Tyler, Esq.

Resource Conservation and Sustainability Division

U.S. Environmental Protection Agency

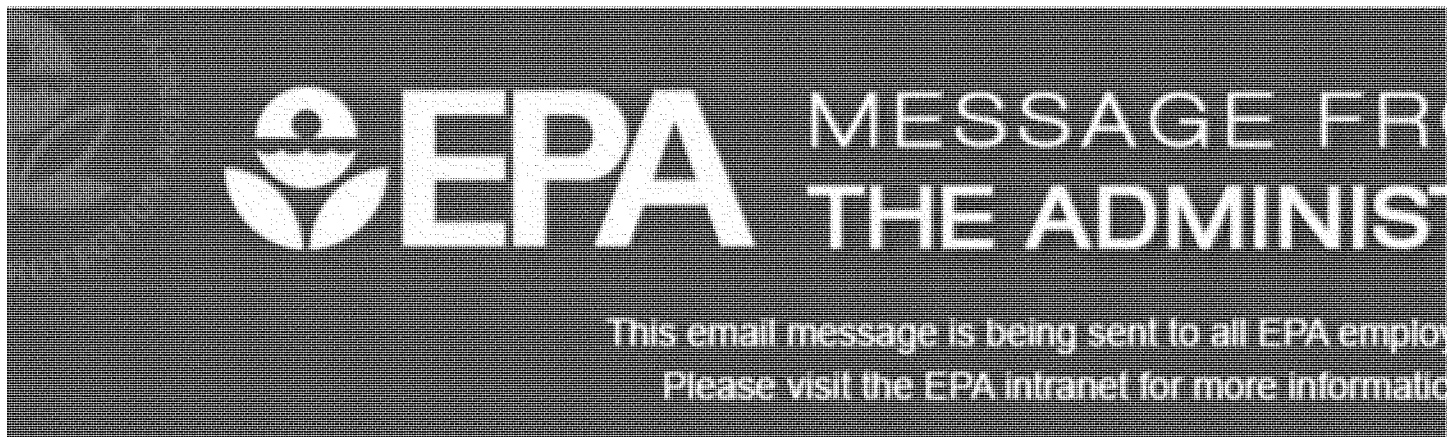
1200 Pennsylvania Avenue, NW (MC 5306P)

Washington, DC 20460

703-308-0146 tyler.tom@epa.gov

Physical location: N-5216 Potomac Yard North

From: Message from the Administrator
Sent: Wednesday, February 10, 2016 5:30 PM
To: Message from the Administrator
Subject: Update on the Clean Power Plan



The Supreme Court's decision to stay implementation of EPA's Clean Power Plan was disappointing, but it doesn't change the path that's already been charted for climate action in this country. You can't stay climate change, and you can't stay climate action.

While litigation over the rule proceeds, EPA must pause on enforcing the rule. But nothing in last night's decision precludes states from continuing to act on climate. We'll keep working with states that choose to continue implementation planning and we'll continue to prepare tools to support those efforts. That work will not pause.

It was our President's commitment and leadership that galvanized an international consensus on the need for climate action. Virtually every nation on this planet signed-on to take ambitious climate action in last December's Global Climate Agreement in Paris. The Pope and many other faith leaders, business leaders, and investors have all called for ambitious climate action now. The energy sector here and across the world is already shifting to a low carbon future. The U.S. solar industry is creating jobs ten times faster than the rest of economy. Millions of people are seeing climate change happen right outside their windows, and on their doorsteps—and they're demanding that EPA address those risks.

So we are doing just that. EPA will continue to pursue a broad range of policies to promote energy efficiency and reduce harmful emissions from cars and trucks, the oil and gas sector, aircraft, and hydrofluorocarbons.

And we will defend our Clean Power Plan – the biggest single step this country has ever taken to combat climate change. The rule fits squarely within the four corners of the Clean Air Act—a statute we have been successfully implementing for 45 years.

The Plan is strong because it's grounded in the voices, ideas, and expertise that we heard throughout the extensive public engagement process that we launched in 2013 and continue to this day. Over the years, we held hundreds of meetings with states and stakeholders and heard from millions of people during the public comment period. This not only gave us a picture of what was already going on in the power sector, it also solidified a network of partnerships between and among states and stakeholders.

So many members of the EPA family have dedicated their professional lives to protecting this planet for future generations and that dedication has made a real difference in people's lives. I am proud of your great work and am confident that we will keep moving forward. We will get over this CPP speed bump and move closer and closer down the road towards a low carbon future. For many of us it's been a long and winding road to get to where we are today, so one more speed bump will not deter us. EPA knows how to overcome challenges and we know how to defend our actions when they are tested.

I want to thank staff from across headquarters, the regions, and our program offices who devoted countless hours to the Clean Power Plan's development, outreach, and engagement. You did a fabulous job developing the CPP. You brought millions of people to the table and so many folks continue to remain engaged and active in states across the country. And we will all continue to fight for it. For the sake of our kids and grandkids, EPA is not slowing down.

Thank you.

To: Administrator
From: Purchia, Liz
Sent: Wed 2/10/2016 11:05:34 PM
Subject: Fwd: Wind, solar backers see no threat from climate rule stay

FYI

Liz Purchia
 U.S. EPA
 202-564-6691

Ex. 6 - Personal Privacy

Begin forwarded message:

From: POLITICO Pro Energy <politicoemail@politicopro.com>
Date: February 10, 2016 at 6:01:46 PM EST
To: <purchia.liz@epa.gov>
Subject: Wind, solar backers see no threat from climate rule stay
Reply-To: POLITICO subscriptions <reply-fe8f11707c62017f70-622737_HTML-637926884-1376319-0@politicoemail.com>

Wind, solar backers see no threat from climate rule stay

By Esther Whieldon

02/10/2016 05:59 PM EDT

The wind and solar power industries don't expect to see their business drop off because of Tuesday's Supreme Court decision to block the Clean Power Plan.

The five-year extension of federal tax incentives for wind and solar that Congress passed in December will keep the renewable energy sources growing, and so will supportive state-level policies combined with lower industry costs, industry experts said. On the other hand, wind and solar aren't likely to make any new inroads into coal-heavy states in the Southeast because of the court's stay on EPA's carbon emission rules.

Green energy advocates still criticized the Supreme Court's surprise decision, which at the least will probably push back the compliance timeline for states to cut carbon emissions from power plants, even if the rule ultimately survives. Some states reacted to Tuesday night's stay by pausing their plans to write compliance plans for cutting greenhouse gases.

The Supreme Court made a "terrible decision, but it is far from the death knell for the renewable industry," said Adam Browning, executive director of state solar advocacy group Vote Solar.

Renewables accounted for the majority of new generation installed in the country last year, he said, and that wasn't driven by the Clean Power Plan. The policies that have supported clean

energy markets and brought costs down have already improved the economics for wind and solar, he added, "and you can't put that genie back in the bottle."

The EPA climate regulation was not expected to help rooftop solar much to begin with, although the rule did send a signal to state regulators and utilities that they have to move to a cleaner energy fleet, said Nathan Serota, a Bloomberg New Energy Finance analyst.

States like California and New York that are aggressively promoting renewables won't alter their trajectory because of the high court's stay, said Michael Ferguson, associate director for utilities at Standard & Poor's. But energy discussions will take on a different tone in states that wouldn't have started to shift to a cleaner energy mix without the prompting of the EPA, he said.

Cameron Prell, counsel in the energy group of Crowell & Moring's Washington office, said Tuesday's ruling will probably bring more attention to energy policy issues in this year's elections. Ferguson said he could even see the issue of green energy incentives issue returning to Congress, where Democrats and Republican might restart their the fight over the production tax credits and investment tax credits that have been timed to phase out around the start of the Clean Power Plan.

But John Coequyt, director of federal and international climate policy for the Sierra Club, said the tax incentives are in no danger. For anything to get across the finish line in Congress, there needs to be very broad support for a package of changes, and it's unlikely that GOP members would agree to bring back the crude oil export ban or that Democrats would agree to shorten the tax incentives, he said.

To view online:

<https://www.politicopro.com/energy/story/2016/02/renewables-outlook-still-rosy-despite-clean-power-plan-rule-stay-094182>

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To: Administrator
From: Jones, Jim
Sent: Wed 2/10/2016 10:39:31 PM
Subject: FW: Update on the Clean Power Plan

Gina, Nice note. You managed to make numerous powerful points in a positive and inspiring manner. Thanks. Jim

From: Message from the Administrator
Sent: Wednesday, February 10, 2016 5:30 PM
To: Message from the Administrator <messagefromtheadministrator@epa.gov>
Subject: Update on the Clean Power Plan
Importance: High



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I want to thank staff from across headquarters, the regions, and our program offices who devoted countless hours to the Clean Power Plan's development, outreach, and engagement. You did a fabulous job developing the CPP. You brought millions of people to the table and so many folks continue to remain engaged and active in states across the country. And we will all continue to fight for it. For the sake of our kids and grandkids, EPA is not slowing down.

Thank you.

To: Purchia, Liz[Purchia.Liz@epa.gov]
From: Administrator
Sent: Tue 2/16/2016 11:48:34 PM
Subject: RE: Wind power installations top solar, natural gas in 2015

Ex. 5 Deliberative

From: Purchia, Liz
Sent: Tuesday, February 16, 2016 12:29 PM
To: Administrator
Subject: FW: Wind power installations top solar, natural gas in 2015

From: POLITICO Pro Energy Whiteboard [mailto:politicoemail@politicopro.com]
Sent: Tuesday, February 16, 2016 12:28 PM
To: Purchia, Liz <Purchia.Liz@epa.gov>
Subject: Wind power installations top solar, natural gas in 2015

By Esther Whieldon

02/16/2016 12:22 PM EDT

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The 2015 wind power installations represented a 65 percent increase from 2014 levels, according to data in a Bloomberg New Energy Finance report released earlier this month.

In a press briefing today, AWEA officials pointed to the two-thirds drop in wind power costs over the past six years, and said that even with the Supreme Court ruling that put EPA's Clean Power Plan on hold, the industry's growth would not be dramatically curtailed.

Still, AWEA officials said they expect that the CPP will withstand the legal challenges.

The wind industry in December won a five-year extension and phase out of federal production

tax credit incentives.

The industry will continue to focus on driving down costs through economies of scale and production and technology improvements, said Chris Brown, the incoming AWEA board chairman and president of Vestas Americas.

To view online:

<https://www.politicopro.com/energy/whiteboard/2016/02/us-added-86-gw-wind-in-2015-067513>

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To: Purchia, Liz[Purchia.Liz@epa.gov]; Fried, Becky[Fried.Becky@epa.gov]; Fritz, Matthew (Fritz.Matthew@epa.gov)[Fritz.Matthew@epa.gov]
From: Administrator
Sent: Tue 2/16/2016 10:38:26 PM
Subject: 02 17 2016 GM - Town Hall - Outlinegm.docx
02 17 2016 GM - Town Hall - Outlinegm.docx

I filled this out up to the big picture section at the end.

To: Purchia, Liz[Purchia.Liz@epa.gov]; Fried, Becky[Fried.Becky@epa.gov]; Fritz, Matthew
(Fritz.Matthew@epa.gov)[Fritz.Matthew@epa.gov]
From: Administrator
Sent: Tue 2/16/2016 6:00:56 PM
Subject: rchi02 17 2016 GM - Town Hall - Outlinegm.docx
02 17 2016 GM - Town Hall - Outlinegm.docx

fyi

To: Garvin, Shawn[garvin.shawn@epa.gov]
Cc: Rupp, Mark[Rupp.Mark@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]
From: Administrator
Sent: Mon 2/15/2016 8:08:21 PM
Subject: Re: Delaware position on CPP and Stay

Ex. 5 Deliberative

Sent from my iPhone

On Feb 15, 2016, at 3:05 PM, Garvin, Shawn <garvin.shawn@epa.gov> wrote:

FYI - This is what I received from MD:

"We'll keep working on a plan that works for Maryland. That means continued stakeholder meetings to inform our work on the state's greenhouse gas reduction plan, RGGI, and the pending Clean Power Plan."

Ex. 5 Deliberative

Thanks - Shawn

Sent from my iPhone

On Feb 15, 2016, at 2:37 PM,
wrote:

Administrator

Good for them!

Sent from my iPhone

On Feb 15, 2016, at 1:07 PM, Rupp, Mark <Rupp.Mark@epa.gov> wrote:

----- Forwarded message -----

From: "Cherry, Philip J. (DNREC)" <Philip.Cherry@state.de.us>
Date: Mon, Feb 15, 2016 at 9:22 AM -0800

Subject: Delaware position on CPP and Stay
To: "Rupp, Mark" <Rupp.Mark@epa.gov>
Cc: "Gabriel S Pacyniak (Pacyniak@law.georgetown.edu)"
<Pacyniak@law.georgetown.edu>, "Mirzakhali, Ali (DNREC)"
<Ali.Mirzakhali@state.de.us>

Mark –

Good Afternoon. The State of Delaware, Department of Natural Resources and Environmental Control (DNREC) will be issuing the attached press release today affirming our intention to move forward with preparing a plan to comply with the Clean Power Plan.

We wanted to be sure EPA knew of our intentions, and our support for the CPP overall.

Please let me know if you have questions. Thank you.

Philip Cherry

Director, Division of Energy and Climate

Department of Natural Resources and Environmental Control

State of Delaware

100 W. Water St.

Suite 5A

Dover, DE 19904

302.735.3480

Ex. 6 - Personal Privacy

Philip.cherry@state.de.us

<02-15-16 Delaware_Clean_Power Plan_PR (2).docx>

To: Rupp, Mark[Rupp.Mark@epa.gov]
Cc: Goffman, Joseph[Goffman.Joseph@epa.gov]; Garvin, Shawn[garvin.shawn@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]
From: Administrator
Sent: Mon 2/15/2016 7:37:07 PM
Subject: Re: Delaware position on CPP and Stay

Good for them!

Sent from my iPhone

On Feb 15, 2016, at 1:07 PM, Rupp, Mark <Rupp.Mark@epa.gov> wrote:

----- Forwarded message -----

From: "Cherry, Philip J. (DNREC)" <Philip.Cherry@state.de.us>
Date: Mon, Feb 15, 2016 at 9:22 AM -0800
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Dover, DE 19904

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Ex. 6 - Personal Privacy

Philip.cherry@state.de.us

<02-15-16 Delaware_Clean_Power Plan_PR (2).docx>

To: McCabe, Janet[MCCabe.Janet@epa.gov]
From: Administrator
Sent: Sat 2/13/2016 1:50:56 AM
Subject: Re: CPP stay

Thanks Janet. Please tell him to keep the faith, stay active and good things will happen.

Sent from my iPhone

On Feb 12, 2016, at 7:01 PM, McCabe, Janet <MCCabe.Janet@epa.gov> wrote:

Gina--ken asked that I pass this note along to you. I'm happy to convey an answer back on my email if you want.

Sent from my iPhone

Begin forwarded message:

From: Ken Kimmell <KKimmell@ucsusa.org>
Date: February 12, 2016 at 1:00:19 PM EST
To: "Janet McCabe (MCCabe.janet@Epa.gov)" <MCCabe.janet@Epa.gov>
Subject: CPP stay

Janet, I have been meaning to write since Tuesday night, and I figured better late than never.

I imagine that you must feel shell shocked right now. I know I do. While It is always risky to speculate on what a court might be thinking, I believe it is possible that one or more of the Justices wanted the fullness of time to sort this out, and that the ruling is therefore not a clear signal that a majority will overturn the CPP. I wanted to you know that we will do everything we can to keep progress moving while the litigation is pending, and to influence the outcome of the ruling on the merits.

And that we are thinking of you, and the Administrator, and how this must feel.

Ken

PS—If you could forward this to the Administrator, that would be great.

Ken Kimmell

President

Union of Concerned Scientists

Tel: (617) 547-5552

Twitter: @KenKimmell

The Union of Concerned Scientists puts rigorous, independent science to work to solve our planet's most pressing problems. Joining with citizens across the country, we combine technical analysis and effective advocacy to create innovative, practical solutions for a healthy, safe, and sustainable future.

www.ucsusa.org | Take action with our [citizen network](#) or [expert network](#). | [Support our work](#). |

Join the conversation on our [blog](#) or follow us on [Facebook](#) and [Twitter](#).

To: Goffman, Joseph[Goffman.Joseph@epa.gov]
Cc: Utech, Dan G. EOP/WHO[Ex. 6 - Personal Privacy]McCabe, Janet[McCabe.Janet@epa.gov]; Canegallo, Kristie A. EOP/WHO[Ex. 6 - Personal Privacy]
From: Administrator
Sent: Fri 2/12/2016 1:22:08 AM
Subject: Re: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

Love it.

Sent from my iPhone

> On Feb 11, 2016, at 7:54 PM, Goffman, Joseph <Goffman.Joseph@epa.gov> wrote:

>

> <https://www.youtube.com/watch?v=k2h9HPZhqHE>

>

> -----Original Message-----

> From: Administrator

> Sent: Thursday, February 11, 2016 4:56 PM

> To: Utech, Dan G. EOP/WHO[Ex. 6 - Personal Privacy]; McCabe, Janet <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>

> Cc: Canegallo, Kristie A. EOP/WHO[Ex. 6 - Personal Privacy]

> Subject: RE: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

>

> Yes!

>

> -----Original Message-----

> From: Utech, Dan G. EOP/WHO[Ex. 6 - Personal Privacy]

> Sent: Thursday, February 11, 2016 4:53 PM

> To: Administrator; McCabe, Janet <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>

> Cc: Canegallo, Kristie A. EOP/WHO[Ex. 6 - Personal Privacy]

> Subject: FW: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

>

> FYI

>

>

> From: Nakamura, David [mailto:David.Nakamura@washpost.com]

> Sent: Thursday, February 11, 2016 01:40 PM

> To: Gabriel, Brian; Allen, Jessica

> Subject: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

>

>

> In remarks at the DNC fundraiser, Obama offered his first public reaction to the Supreme Court's decision to stay the EPA's Clean Power Plan:

>

> "The Supreme Court did something unusual this week. The centerpiece of our climate action plan involves working with states like California to come up with a strategy for reducing their carbon emissions... We do so under the clean air act, which the Supreme Court says requires the Environmental Protection Agency to regulate carbon emissions if we can show, as science has clearly shown, damage to public health. We are very confident we are on strong legal footing here.. ... But the Supreme Court issued a stay ...

>

> "One of reasons I want to talk about this is because in the last couple of days I've heard people say, 'The Supreme Court struck down the clean power plant rule. That's not true, so don't despair people. This a legal decision that says, 'Hold on until we review the legality.' We are very firm in terms of the legal footing here...

>
> "But the reason I bring this up now is to underscore fact this is going to be an enormous generational challenge; there are going to be people constantly pushing back and making sure we keep clinging to old dirty fuels and a carbon-emitting economic strategy that we need to be moving away from.
>
> "We need to be investing in the future, not the past. Instead of subsidizing ... the oil industry, we should be investing in solar and wind and battery technology--all the things that promise us we can generate enormous power without destroying the planet for our kids and grandkids."
>
> "I could not be prouder of our efforts to mobilize 200 nations around the world to say, 'This is a problem.' ... That's the essence of American leadership but that American leadership depends on us, depends on an administration that believes in science, for example."
>
>
>
> That's it on the climate stuff. but more to come on his remarks in later report.
>
> -30-
>
> -----
>
> Unsubscribe
<<http://messages.whitehouse.gov/accounts/USEOPWHPO/subscriber/new?preferences=true>>
>
> The White House * 1600 Pennsylvania Avenue, NW * Washington DC 20500 * 202-456-1111
>

To: Brian Deese [Ex. 6 - Personal Privacy]; Canegallo,
 Kristie A [Ex. 6 - Personal Privacy]; Hornung, Daniel Z. EOP [Ex. 6 - Personal Privacy]
 From: Administrator
 Sent: Thur 2/11/2016 7:34:42 PM
 Subject: FW: E&E: For many utilities, court action 'doesn't really change anything'

Ex. 5 Deliberative

From: Purchia, Liz
 Sent: Thursday, February 11, 2016 8:41 AM
 To: Administrator; Goffman, Joseph
 <Goffman.Joseph@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>
 Subject: E&E: For many utilities, court action 'doesn't really change anything'

Ex. 5 Deliberative

The story below includes quotes from EEI and Ralph Izzo.

* **"Ameren Corp.** is already making the transition to a cleaner and more diverse generation portfolio in a responsible manner," Ajay Arora, Ameren's vice president of environmental services and generation resource planning, said in a statement.

• **Calpine Corp.** spokesman Brett Kerr said the move wasn't something the market actually anticipated. "We'll continue to be supportive of the Clean Power Plan," he said, pointing to a "natural evolution of the market anyway" away from less efficient coal plants. "So it won't really dictate us to change our strategy too much, which is to focus on being the premier operator of gas-fired plants in the United States." He said it's not in anybody's interest to have a federal implementation plan that dictates compliance for Texas.

• **Dominion** spokesman David Botkins, said "We will work constructively with the Commonwealth and other stakeholders on a compliance plan that has our customers as the first priority, ensures reliability, and maintains a diverse mix of electric generation."

- New Orleans-based **Entergy Corp.** has utility operations in Louisiana and three other states as well as a fleet of nuclear reactors. "Entergy representatives will continue to engage with our states and stakeholders while we await the court's decision," said Chuck Barlow, vice president of environmental strategy and policy. "We are uncertain at this time what additional steps our states may take, if any, regarding Clean Power Plan implementation or review," he said.
- **Exelon Corp.**, the nation's largest nuclear operator, said, "Regardless of this procedural development, the Supreme Court already has ruled that carbon is a pollutant the EPA must regulate. Our customers want reliable, clean and affordable electricity, and Exelon remains committed to helping drive the national transition to a low-carbon future."
- **Iowa Association of Electric Cooperatives** Executive Vice President Chuck Soderberg, said, "Moving ahead with implementation of the Clean Power Plan regulations before legal challenges are played out would have caused many Iowa cooperatives to take costly and irreversible steps to comply."
- Pahl Shipley, director of corporate communications at New Mexico-based **PNM Resources Inc.**, said the stay doesn't affect the company's plan to lower the use of coal significantly by retiring two units at the San Juan Generating Station. "We'll monitor developments and continue to work with the state, but regardless of the outcome the company is moving forward to cut carbon emissions and add cleaner resources to our portfolio, including solar and natural gas," Shipley said.
- **Southern Co.** spokesman Tim Leljedal called the stay "the right decision for customers and the states unduly tasked with achieving EPA's overreaching mandates." It protects "utility customers against significant near-term costs" while preserving states' authority while the courts weigh ongoing legal challenges, he said.
- **Southwestern Electric Power Co.**, part of American Electric Power Co. Inc., said the court's move confirms that the legal justification for the rule should be looked at by courts before scarce resources are used to develop state plans. "The accelerated schedule for briefing and argument in the lower court assures that the case will be heard promptly," said Peter Main, a spokesman. "AEP has already cut its carbon dioxide emissions 30 percent from 2005 levels, and we will continue to reduce carbon dioxide emissions from our generation fleet as we transition to more natural gas and renewable resources in the future."
- **Pacific Gas and Electric Co.** said it was "disappointed" by the ruling. "We believe EPA has ample legal authority to pursue the Clean Power Plan," said Vice President of Federal Affairs and Policy Melissa Lavinson, calling EPA's rule "measured and reasonable." "PG&E will continue to support the Clean Power Plan and will move forward with the many steps we are taking to support California's commitments to reduce greenhouse gases."

For many utilities, court action 'doesn't really change anything'

Peter Behr, Daniel Cusick, Debra Kahn, Edward Klump, Rod Kuckro, Saqib Rahim and Jeffrey Tomich, E&E reporters

Published: Thursday, February 11, 2016

The Supreme Court's stay of U.S. EPA's Clean Power Plan doesn't amount to much for many of the nation's electric utilities, as they were already planning to close down their older coal-fired generating units in the next five to 10 years and move to cleaner sources of electric power.

For most of the rest, the stay allows for more time to puzzle through various compliance options should the rule eventually pass muster with the high court in 2017 or 2018.

The 5-4 decision late Tuesday freezes the Clean Power Plan while the rule is under review at the U.S. Court of Appeals for the District of Columbia Circuit. The stay throws open the door to a prolonged legal battle that could delay early decisions by states about how to meet federal emissions targets outlined in the rule (*see related story*).

The Supreme Court action "doesn't really change anything," said Quin Shea, vice president for environment at the **Edison Electric Institute**, the lobby for investor-owned utilities.

Speaking to Wall Street executives yesterday in New York, Shea said larger trends -- such as coal retirements, cheap natural gas, environmental regulations, cheaper renewables and new business models -- aren't going away, regardless of what happens with the CPP.

"We're still reducing CO2, and the general curve, in terms of our emissions reductions, that's not going to change because of what happened yesterday," Shea said. "You don't simply put the genie back in the bottle when it comes to major strategic investments that the captains of industry are making."

Ralph Izzo, chairman, president and CEO of **Public Service Enterprise Group Inc.**, echoed Shea in an interview yesterday with E&ETV.

His state of New Jersey "has done a good job preparing for a CPP-type future. The question just becomes: What are the rules of engagement that are specific to CPP? And that's now been thrown up in the air," Izzo said.

"We've stayed out of the detailed legal debate," he said. As far as an eventual consensus on curbing carbon emissions, "it's a question of timing, not a question of if."

PSEG "firmly believes that carbon emissions need to be reduced. We do believe that climate change is a serious issue; all the science points to that. It is real, and action needs to be taken; it's not going to wait for us to get our legal or political act together," Izzo said.

"So what we've said is, let's just keep marching on the path we've got. I've always predicted this is not going to be decided anywhere but at the Supreme Court," he said.

While the "unusual" ruling was a "surprise" for Gerard Anderson, CEO of **DTE Energy Co.**, he said the court decision will have no effect on the company, at least over the next decade.

"A quick reaction, with one night to sleep on it, is that I'm not sure not much will change for us in the first half of the 15-year Clean Power Plan implementation period. That's because we and many in the industry are dealing with during that period with the replacement of very old, smaller and marginally economical [coal] plants, especially

given gas prices now," Anderson said during a conference call to discuss fourth-quarter earnings.

With or without a carbon rule, DTE and Consumers Energy will be retiring a number of older, less efficient coal plants. Detroit-based DTE, in particular, will see coal shrink from 50 percent of its generating portfolio to 25 percent by 2030, to be replaced by natural gas and renewables.

"It's time to move on," Anderson said, noting that some of the plants are from the 1950s and '60s.

Depending on what happens, the court action could have an impact in the second half of the next decade, however.

"As you get out in the later years, 2025 to 2030, you do start to take on some of the larger facilities," he said. "So if it turned out that the Clean Power Plan were changed in some way, those years I think could be affected. That said, there is a lot of water that needs to flow over this dam before we get too specific about the impacts of the stay."

Many already place a price on carbon

Before the court's stay, **American Electric Power Co. Inc.** -- a major operator of coal-fueled power plants -- had projected a significant drop in those units' production. Coal plants account for 60 percent of the utility's 32,000 megawatts of generation capacity, and AEP expected that to drop to 45 percent by 2026.

"I don't think the stay changes the projection," said John McManus, AEP's vice president for environmental services. "That is based on existing rules we know about and assumptions based on natural gas prices, electricity market prices and customer demand.

"It does not include any compliance assumptions of the CPP."

However, AEP, like other utilities, does include in its projections an implicit price for carbon, which gives a competitive edge to non-carbon sources like nuclear and renewable power. AEP assumes there will be a carbon abatement program for power plants.

Does this give efficient coal units a reprieve? "That is really a timing question," McManus said, noting that if the stay delays the current compliance schedule beginning in 2022, "coal units aren't going to have to deal with this for some additional time."

"The biggest driver now that we're seeing is the way energy markets are now with gas prices," he added. That will decide the competition between coal, natural gas and other resources over the next few years.

"The implementation of the rule is stayed until its ultimate resolution, but that doesn't prevent a state from doing something proactively, moving forward on its own."

'Breathing room' for compliance planning

Oklahoma-based **OGE Energy Corp.** was pleased with the stay "even though OGE is well on track in making reductions in CO2 emissions due to our compliance with [a] regional haze rule as previously mandated," said Randy Swanson, an OGE spokesman. He said the stay could provide "some breathing room" as well as "more certainty on compliance decisions pertaining to the rule as the rule goes through litigation."

In Minnesota, where utilities began working with state regulators on compliance strategies more than a year ago, officials expressed surprise at the stay. But utilities also indicated they would continue working to meet carbon reduction targets even as EPA stands down on CPP enforcement.

"While the Supreme Court's ruling is a significant development in this case, the merits of the case have not been decided and the legal proceedings will continue," Minneapolis-based Xcel Energy Inc. said in a prepared statement.

Regardless of the final outcome, **Xcel** said it will continue to work with states and stakeholders on plans "to create sustainable and affordable energy futures."

"This approach will not only ensure compliance with existing and new regulations, but also take advantage of new technologies, recognize evolving customer needs and continue to drive improvements in how we produce and deliver energy," the Fortune 500 utility said.

Amy Rutledge, a spokeswoman for Minnesota Power, said the company welcomes the stay "since it allows time for the lower Courts to hear and resolve the many legal concerns" about the CPP. She said the Duluth-based utility "will continue to stay engaged in the process as the court determines the next steps for this complicated and impactful regulation."

Utilities in the far West, where states have been pursuing carbon-cutting policies for some time, vowed to continue despite the setback.

"We're still going to continue to look to ways to cost-effectively expand our commitment to renewable resources," said Ry Schwark, a spokesman for PacifiCorp, which has operations in Oregon, Washington, California, Utah, Wyoming and Idaho. **PacifiCorp** -- a signatory to the White House's American Business Act on Climate Pledge in December, supporting the U.N. climate talks in Paris -- intends to "continue to work with states as they develop their plans," Schwark said.

Schwark said he thought the ruling would encourage states that have been writing carbon regulations, like Oregon and Washington. "This development is just likely to accelerate the momentum for state action," he said.

One of California's largest investor-owned utilities also pledged support for state-level action.

Southern California Edison expressed disappointment in the court's ruling but added that "SCE supports the Clean Power Plan and will maintain an active role in supporting California's efforts to reduce greenhouse gas emissions, including support for renewable energy, transportation electrification, energy efficiency and innovative, clean energy technologies."

Grid operators continue to model, monitor

Many states and utilities across the midsection of the country were looking to analysis and economic modeling being done by the region's grid operator.

The **Midcontinent Independent System Operator**, which operates the power grid across parts of 15 states, is just wrapping up its near-term analysis of the final rule, which is evaluating dozens of potential scenarios to see what effect the rule would have on the power plant fleet in its footprint. A presentation is scheduled for a Feb. 17 meeting.

Where MISO will go with its longer-term analysis of the impact of the Clean Power Plan is unclear given Tuesday's court decision, spokesman Andy Schonert said in an email. However, the Carmel, Ind.-based grid operator is considering modeling a "Partial CPP Future" scenario that assumes that legal or political challenges would slow or halt compliance.

"We will continue to discuss that possible scenario and other potential scenarios with our stakeholders to ensure we are developing transmission plans that ensure the continued reliability of the electric grid," Schonert said.

The **PJM Interconnection** said it is still "committed to delivering to the states, as promised, the analysis of the potential effects of the Clean Power Plan on wholesale markets and reliability. PJM intends to complete the planned analysis. Our role is to provide data and analysis to help inform the states should the states need to make decisions in the future."

The **Electric Reliability Council of Texas** previously warned that the Clean Power Plan could lead to the closure of at least 4,000 MW of coal-fired generation in Texas and an increase in retail power prices. The operator is watching the rule's progress.

"ERCOT will continue to monitor developments and provide information as needed to Texas policymakers on this and other matters that could affect future electric reliability," said Robbie Searcy, an ERCOT spokeswoman.

The Southwest Power Pool, which operates the grid across much of the Great Plains, said it's still evaluating implications of the stay.

"We will work closely with our stakeholders to determine how this action impacts both our ongoing regional transmission planning efforts and our work to facilitate compliance with the federal government's carbon reduction goals," said Lanny Nickell, vice president of engineering at SPP.

Nickell said SPP's stance has remained the same since a draft rule came out in 2014 -- "that sufficient time is needed to develop the necessary transmission infrastructure to facilitate the Clean Power Plan's reliable implementation."

Cooperatives, public power value more time

Jeffrey Connor, interim CEO for the **National Rural Electric Cooperative Association**, which had opposed the EPA rule, said "charging ahead with implementation of the Clean Power Plan would have caused immediate and irreparable harm" because co-ops "would have been forced to take costly and irreversible steps to comply with the rule."

Rick Lancaster, vice president of generation at Great River Energy, which produces power for roughly 1.7 million customers through 28 affiliated cooperatives in Minnesota and Wisconsin, said yesterday that officials were still gauging the implications of the court stay.

"We're still not sure what the full outcome will be, but it appears to at least buy us a little more time," he said.

The additional time could be especially helpful for **Great River in North Dakota**, since its affected coal units -- including the 1,100 MW Coal Creek Station -- are concentrated in the state's lignite coal region. Much of the power from those coal units is sent across high-voltage direct-current transmission lines into neighboring Minnesota.

North Dakota faces one of the toughest CO2 reduction requirements under the Clean Power Plan, at nearly 45 percent, and many of the state's utilities have rallied around the state-led legal challenges to the rule. North Dakota just last week joined the Supreme Court petition filed by more than two dozen states asking for the stay.

Lancaster noted that Great River was not among the utilities challenging the CPP because it believed the rule is consistent with earlier Supreme Court rulings on EPA's standing to regulate carbon dioxide under the Clean Air Act. "It was not our point of view that the rulemaking was contrary to existing law, so we were a little surprised," he said.

That view is not shared by **Basin Electric Power Cooperative**, one of North Dakota's largest power providers, which said in a statement that the court stay was "a positive step in the right direction," noting the rule's effect on the co-op's customers, "those who will be left paying for compliance with this rule."

The **American Public Power Association's** response in welcoming the stay was measured. "Almost all parties

agree that implementation of the CPP will result in broad and transformative changes to the electricity industry. Thus, resolving these highly controversial issues will significantly reduce the uncertainty of the program and, ultimately, the costs to consumers," the group said in a statement.

In the interim, APPA said, its public power utilities will continue "substantial progress in reducing greenhouse gas emissions through greater use of renewable, nuclear, and other low- and non-emitting sources of electricity generation, and the implementation of energy efficiency and conservation programs."

Asked what APPA would tell members about whether to continue to prepare for possible compliance with the rule, Joe Nipper, APPA's senior vice president for regulatory affairs and communications, said, "With the caveat that we don't 'advise' our members per se, but if asked, our suggestion would be to continue to participate in the state's process if they intend to continue with it."

Liz Purchia

Acting Associate Administrator, Public Affairs

U.S. Environmental Protection Agency

Office: 202-564-6691

Ex. 6 - Personal Privacy

To: McCabe, Janet[McCabe.Janet@epa.gov]; Garvin, Shawn[garvin.shawn@epa.gov]; Meiburg, Stan[Meiburg.Stan@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]
From: Administrator
Sent: Thur 2/11/2016 6:39:16 PM
Subject: RE: State Impact Pa. (2-10) Wolf says PA will move forward on Clean Power Plan

Ex. 5 Deliberative

From: McCabe, Janet
Sent: Thursday, February 11, 2016 12:28 PM
To: Garvin, Shawn <garvin.shawn@epa.gov>; Administrator
Administrator; Meiburg, Stan <Meiburg.Stan@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Rupp, Mark <Rupp.Mark@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Fritz, Matthew <Fritz.Matthew@epa.gov>; Distefano, Nichole <DiStefano.Nichole@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>
Subject: RE: State Impact Pa. (2-10) Wolf says PA will move forward on Clean Power Plan

Ex. 5 Deliberative

From: Garvin, Shawn
Sent: Thursday, February 11, 2016 8:31 AM
To: Administrator Meiburg, Stan <Meiburg.Stan@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Rupp, Mark <Rupp.Mark@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Fritz, Matthew <Fritz.Matthew@epa.gov>; Distefano, Nichole <DiStefano.Nichole@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>
Subject: Fwd: State Impact Pa. (2-10) Wolf says PA will move forward on Clean Power Plan

FYI...

Sent from my iPhone

Begin forwarded message:

From: "Seneca, Roy" <Seneca.Roy@epa.gov>

Date: February 11, 2016 at 8:20:41 AM EST

To: "Brown, Kinshasa" <Brown.Kinshasa@epa.gov>, "Miller, Linda" <miller.linda@epa.gov>, "Arnold, David" <arnold.david@epa.gov>, "egan, patrick" <egan.patrick@epa.gov>, "Campbell, Dave" <campbell.dave@epa.gov>, "Gordon, Michael" <Gordon.Mike@epa.gov>, "Linn, Emily" <linn.emily@epa.gov>, "schafer, joan" <schafer.joan@epa.gov>, "D'Andrea, Michael" <DANDREA.MICHAEL@EPA.GOV>, "White, Terri-A" <White.Terri-A@epa.gov>, "Mastro, Donna" <Mastro.Donna@epa.gov>, "Rodrigues, Cecil" <rodrigues.cecil@epa.gov>, "Ryan, Daniel" <Ryan.Daniel@epa.gov>, "Garvin, Shawn" <garvin.shawn@epa.gov>, "Searfoss, Renee" <searfoss.renee@epa.gov>

Subject: State Impact Pa. (2-10) Wolf says PA will move forward on Clean Power Plan

Wolf says PA will move forward on Clean Power Plan

By Susan Phillips

February 10, 2016

The Wolf administration says it will continue with plans to comply with new federal mandates to reduce the state's carbon emissions despite a decision by the U.S. Supreme Court on Tuesday, which put a hold on Obama's landmark effort to combat climate change.

In a surprise move, the court issued a stay on implementation of the Clean Power Plan while challenges to the rules play out in a lower court. The court is scheduled to hear arguments in June, while the states are supposed to have their implementation plans to the EPA by September. The CPP requires every state to come up with a plan to reduce its carbon emissions from the electric power sector. But 27 states sued the EPA, saying the Clean Air Act did not give the agency the authority to implement the rules. The ruling is a setback for the Obama Administration's efforts to address climate change.

Pennsylvania is on target for coming up with its own implementation plan by the EPA's September deadline, and has held 14 listening sessions on the rules across the state. Governor Wolf's spokesman Jeff Sheridan says the Supreme Court's decision will not impact the state's ongoing efforts to comply with the CPP.

"Pennsylvania will continue planning and engagement with stakeholders on the Clean Power Plan, pending final decision of this issue by the Supreme Court," Sheridan wrote in an email to StateImpact. "We will continue to closely monitor the ongoing legal process."

The coal industry sees the Supreme Court decision as a surprise victory. Coal would be the big

loser under the Clean Power Plan.

Abby Foster, a spokesperson with the Pennsylvania Coal Alliance, says she wants the Wolf administration to hold off on coming up with a plan.

“Hopefully this will cause some pause from the Wolf Administration,” Foster told StateImpact. “And for them to consider the fact that this is a historic decision from the Supreme Court to even stay a regulation, they should take that into account especially since Pennsylvania is in the top three in the nation for electricity generation and production.”

Coal has been hit hard by new environmental rules, but also the cheap price of natural gas. Just six years ago, coal produced about half of the nation’s electricity. Today, natural gas has gotten an edge over coal, and last July natural gas dominated electric power generation for the first time.

By the EPA’s own estimates, 14 to 19 percent of coal-fired power “is projected to be uneconomic” by 2030 under the Clean Power Plan. The agency predicts coal to slide from 36 percent of our electric generation this year to 27 percent in 2030.

Although the CPP is stalled, the EPA says regulating carbon dioxide through the Clean Air Act will stand up to court scrutiny. The Supreme Court, in a landmark decision in 2007, Massachusetts v. EPA, ruled that the EPA was obligated to regulate greenhouse gases.

A recent Penn State report warns Pennsylvania faces hotter, longer summers and more destructive storms and floods if the climate continues to warm unabated. The report found the state could face a 5 degree warming by 2050.

Roy Seneca

EPA Region 3 Press Officer

Office Communications and Government Relations

seneca.roy@epa.gov

(215) 814-5567

To: Wachter, Eric[Wachter.Eric@epa.gov]
From: Administrator
Sent: Thur 2/11/2016 6:37:09 PM
Subject: RE: Update on the Clean Power Plan

Please respond:

Tom – thanks for the note, Really appreciate it and you can bet that we will keep making progress.

From: Wachter, Eric
Sent: Thursday, February 11, 2016 11:44 AM
To: Administrator
Subject: FW: Update on the Clean Power Plan
Importance: High

From: Tyler, Tom
Sent: Wednesday, February 10, 2016 5:43 PM
To: Administrator McCabe, Janet <McCabe.Janet@epa.gov>
Subject: Fw: Update on the Clean Power Plan
Importance: High

Dear Gina and Janet,

I'm sorry about the court's action but am hopeful they'll see the light and allow this critical work to continue. I'm so proud of the Agency's effort and deeply appreciative of the roles each of you, and your amazing teams, have played and are playing. I was happy to have a tiny part in it working with the states at ECOS and I am thinking of you all.

No need to reply: I know you're swamped. I am looking forward to seeing more of both of you when I relocate to OP/OSEM later this month and join them fully after the G7 workshop in March.

All the best to you,

Tom

Thomas Loy Tyler, Esq.

Resource Conservation and Sustainability Division

U.S. Environmental Protection Agency

1200 Pennsylvania Avenue, NW (MC 5306P)

Washington, DC 20460

703-308-0146 tyler.tom@epa.gov

Physical location: N-5216 Potomac Yard North

From: Message from the Administrator
Sent: Wednesday, February 10, 2016 5:30 PM
To: Message from the Administrator
Subject: Update on the Clean Power Plan



The Supreme Court's decision to stay implementation of EPA's Clean Power Plan was disappointing, but it doesn't change the path that's already been charted for climate action in this country. You can't stay climate change, and you can't stay climate action.

While litigation over the rule proceeds, EPA must pause on enforcing the rule. But nothing in last night's decision precludes states from continuing to act on climate. We'll keep working with states that choose to continue implementation planning and we'll continue to prepare tools to support those efforts. That work will not pause.

It was our President's commitment and leadership that galvanized an international consensus on the need for climate action. Virtually every nation on this planet signed-on to take ambitious climate action in last December's Global Climate Agreement in Paris. The Pope and many other faith leaders, business leaders, and investors have all called for ambitious climate action now. The energy sector here and across the world is already shifting to a low carbon future. The U.S. solar industry is creating jobs ten times faster than the rest of economy. Millions of people are seeing climate change happen right outside their windows, and on their doorsteps—and they're demanding that EPA address those risks.

So we are doing just that. EPA will continue to pursue a broad range of policies to promote energy efficiency and reduce harmful emissions from cars and trucks, the oil and gas sector, aircraft, and hydrofluorocarbons.

And we will defend our Clean Power Plan – the biggest single step this country has ever taken to combat climate change. The rule fits squarely within the four corners of the Clean Air Act—a statute we have been successfully implementing for 45 years.

The Plan is strong because it's grounded in the voices, ideas, and expertise that we heard throughout the extensive public engagement process that we launched in 2013 and continue to this day. Over the years, we held hundreds of meetings with states and stakeholders and heard from millions of people during the public comment period. This not only gave us a picture of what was already going on in the power sector, it also solidified a network of partnerships between and among states and stakeholders.

So many members of the EPA family have dedicated their professional lives to protecting this planet for future generations and that dedication has made a real difference in people's lives. I am proud of your great work and am confident that we will keep moving forward. We will get over this CPP speed bump and move closer and closer down the road towards a low carbon future. For many of us it's been a long and winding road to get to where we are today, so one more speed bump will not deter us. EPA knows how to overcome challenges and we know how to defend our actions when they are tested.

I want to thank staff from across headquarters, the regions, and our program offices who devoted countless hours to the Clean Power Plan's development, outreach, and engagement. You did a fabulous job developing the CPP. You brought millions of people to the table and so many folks continue to remain engaged and active in states across the country. And we will all continue to fight for it. For the sake of our kids and grandkids, EPA is not slowing down.

Thank you.

To: Wachter, Eric[Wachter.Eric@epa.gov]
From: Administrator
Sent: Thur 2/11/2016 6:31:03 PM
Subject: RE: My statement on SCOTUS stay

Please respond:

Cheryl – very thoughtful statement. Thank you!

Gina

From: Wachter, Eric
Sent: Thursday, February 11, 2016 12:54 PM
To: Administrator
Subject: FW: My statement on SCOTUS stay

From: Cheryl LaFleur, Commissioner
Sent: Wednesday, February 10, 2016 5:23 PM
To: Administrator
Subject: My statement on SCOTUS stay

Gina

I wanted to let you know that, in response to press inquiries, I released the attached statement on the Supreme Court stay of the Clean Power Plan—the link is below.

Thinking of you today – hang in there.

Best,

Cheryl

<http://www.ferc.gov/media/statements-speeches/lafleur/2016/02-10-16-lafleur.asp#.Vru3MLIrK70>

*Commissioner Cheryl A. LaFleur
Federal Energy Regulatory Commission
888 First St., N.E.
Washington, D.C. 20426*

202-502-8961

Commissioner

To: Purchia, Liz[Purchia.Liz@epa.gov]
From: Administrator
Sent: Wed 2/10/2016 11:50:01 PM
Subject: Re: Updated outline for 3N

No worries. I have enough to do tonight.

Sent from my iPhone

On Feb 10, 2016, at 6:07 PM, Purchia, Liz <Purchia.Liz@epa.gov> wrote:

We are planning to have QAs for you in the morning. They are just being reviewed by Janet and Joe tonight. If you'd like them earlier we can send over.

Liz Purchia
U.S. EPA
202-564-6691

Ex. 6 - Personal Privacy

On Feb 10, 2016, at 5:49 PM, Fried, Becky <Fried.Becky@epa.gov> wrote:

Administrator –

Attached and copied below is an updated outline for 3N tomorrow. This is also being printed out for you to take with you in hard copy.

Ex. 5

I can work on this more as needed tonight and tomorrow morning. Let me know how I can help.

Thanks

Outline for 3N remarks – February 11, 2016

Ex. 5 - Deliberative

Ex. 5 - Deliberative

Ex. 5 - Deliberative

Ex. 5 - Deliberative

To: Rupp, Mark[Rupp.Mark@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Garvin, Shawn[garvin.shawn@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]
From: Administrator
Sent: Wed 2/10/2016 10:12:04 PM
Subject: RE: Governor McAuliffe Statement on U.S. Supreme Court's Decision to Stay the Clean Power Plan

Very cool

From: Rupp, Mark
Sent: Wednesday, February 10, 2016 4:21 PM
To: McCabe, Janet <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Administrator <Administrator@epa.gov>; Garvin, Shawn <garvin.shawn@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Fritz, Matthew <Fritz.Matthew@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Distefano, Nichole <DiStefano.Nichole@epa.gov>
Subject: FW: Governor McAuliffe Statement on U.S. Supreme Court's Decision to Stay the Clean Power Plan

From: Deshazor, Traci (GOV) [mailto:Traci.Deshazor@governor.virginia.gov]
Sent: Wednesday, February 10, 2016 4:19 PM
Subject: ICYMI: Governor McAuliffe Statement on U.S. Supreme Court's Decision to Stay the Clean Power Plan



Commonwealth of Virginia

Office of Governor Terry McAuliffe

FOR IMMEDIATE RELEASE

Date: February 10, 2016

Office of the Governor

Contact: Brian Coy

Email: brian.coy@governor.virginia.gov

Governor McAuliffe Statement on U.S. Supreme Court's Decision to Stay the Clean Power Plan

RICHMOND – Governor Terry McAuliffe released the following statement today after the U.S. Supreme Court stayed the Clean Power Plan in *North Dakota v. EPA*:

“Over the last several months my administration has been working with a diverse group of Virginia stakeholders that includes members of the environmental, business, and energy communities to develop a strong, viable path forward to comply with the Clean Power Plan. As this court case moves forward, we will stay on course and continue to develop the elements for a Virginia plan to reduce carbon emissions and stimulate our clean energy economy.”

###

Traci DeShazor

Deputy Director

Virginia Office of Intergovernmental Affairs

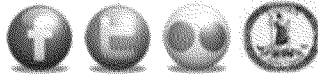
Office of Governor Terence R. McAuliffe

444 N. Capitol Street, NW Suite 214

Washington D.C. 20001

o. (202) 783-1769

e. traci.deshazor@governor.virginia.gov



To: Purchia, Liz[Purchia.Liz@epa.gov]; Fried, Becky[Fried.Becky@epa.gov]
From: **Administrator**
Sent: Wed 2/10/2016 8:49:51 PM
Subject: 02 10 16 GM Mass Mailergm - CPP Stay_v3.docx
02 10 16 GM Mass Mailergm - CPP Stay_v3.docx

Take a look and share if you want.

From: Wortman, Eric

Location: Internal conference line

Importance: Normal

Subject: CPP Stay: ADD Special Purpose Call

Start Date/Time: Wed 2/10/2016 8:00:00 PM

End Date/Time: Wed 2/10/2016 8:30:00 PM

[15A773-Clean-Power-Plan-stay-order.pdf](#)

Shortening the call by ½ hour, from 3:00 - 3:30 ET.

Special purpose call with Janet, Air Division Directors and HQs regarding last night's SCOTUS stay of the CPP. ADDs may invite CPP APMs and key staff as appropriate. Also including the ORC contact list for those of you involved with CPP. A copy of the stay order is attached.

(ORDER LIST: 577 U.S.)

TUESDAY, FEBRUARY 9, 2016

ORDER IN PENDING CASE

15A773 WEST VIRGINIA, ET AL. V EPA, ET AL.

The application for a stay submitted to The Chief Justice and by him referred to the Court is granted. The Environmental Protection Agency's "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units," 80 Fed. Reg. 64,662 (October 23, 2015), is stayed pending disposition of the applicants' petitions for review in the United States Court of Appeals for the District of Columbia Circuit and disposition of the applicants' petition for a writ of certiorari, if such writ is sought. If a writ of certiorari is sought and the Court denies the petition, this order shall terminate automatically. If the Court grants the petition for a writ of certiorari, this order shall terminate when the Court enters its judgment.

Justice Ginsburg, Justice Breyer, Justice Sotomayor, and Justice Kagan would deny the application.

To: Nayem, Tasfia[Nayem.Tasfia@epa.gov]
From: Nayem, Tasfia
Sent: Tue 2/16/2016 10:00:30 PM
Subject: Climate News Roundup - February 16, 2016



Climate News Round-Up

a daily update on climate change for EPA staff

Top Stories

Scalia's death plunges campaigns, climate cases into chaos (Climate Wire)

<http://www.eenews.net/stories/1060032372>

California's new methane rules would be the nation's strongest (Inside Climate News)

<http://insideclimatenews.org/news/10022016/california-new-methane-rules-would-be-nation-strongest-oil-gas-aliso-canyon>

National

Study flags concerns CO2 underground stores could leak (Climate Home)

<http://www.climatechangenews.com/2016/02/15/study-flags-concerns-co2-underground-stores-could-leak/>

Nevada regulators vote to phase in solar rate hike more slowly (Associated Press)

<http://www.nevadaappeal.com/news/20618494-113/regulators-vote-to-phase-in-solar-rate-hike>

Skid in oil prices pulls the recycling industry down with it (New York Times)

<http://www.nytimes.com/2016/02/13/business/energy-environment/skid-in-oil-prices-pulls-the-recycling-industry-down-with-it.html>

US, Canada and Mexico sign clean energy pact (Agence France Presse)

<http://www.industryweek.com/environment/us-canada-and-mexico-sign-clean-energy-pact>

International

Air pollution led to more than 5.5 million premature deaths in 2013, say scientists (The Guardian)

<http://www.theguardian.com/environment/2016/feb/12/air-pollution-deaths-india-china>

Deal on aviation emissions sets can't-miss goals (New York Times)

<http://www.nytimes.com/2016/02/16/business/energy-environment/a-hollow-agreement->

[on-aviation-emissions.html](#)

Sweden to go carbon neutral by 2045 (Climate Home)

<http://www.climatechangenews.com/2016/02/11/sweden-to-go-carbon-neutral-by-2045/>

Met Office fears Brexit would damage its climate models (Climate Home)

<http://www.climatechangenews.com/2016/02/11/met-office-fears-brexit-would-hit-world-best-climate-models/>

Clean Energy and Climate Action

DOE proposes new light bulb standard (Climate Wire)

<http://www.eenews.net/eenewspm/2016/02/12/stories/1060032368>

Saving America's forests one wooden high-rise at a time (Climate Wire)

<http://www.eenews.net/climatewire/2016/02/16/stories/1060032371>

U.K.'s world-beating offshore wind could get \$8.4 billion bigger (Bloomberg)

<http://www.bloomberg.com/news/articles/2016-02-15/u-k-s-world-beating-offshore-wind-could-get-8-4-billion-bigger>

Regulators make case for low-income solar deployment (Climate Wire)

<http://www.eenews.net/climatewire/2016/02/16/stories/1060032413>

Opinion/Blogs/Editorial/Analysis

What Antonin Scalia's death means for Obama's climate plans (Vox)

<http://www.vox.com/2016/2/14/10989694/scalia-obama-climate-plan>

California's gas leak is finally capped, but the next disaster could be right around the corner (Quartz)

<http://qz.com/616369/californias-gas-leak-is-finally-capped-but-the-next-disaster-could-be-right-around-the-corner/>

A look at last week's CPP stay (New York Times)

<http://www.nytimes.com/interactive/2016/02/10/us/what-supreme-court-decision-to-halt-climate-regulation-means.html>

Hey US science teachers, leave those climate myths alone (New Scientist)

<https://www.newscientist.com/article/2077167-hey-us-science-teachers-leave-those-climate-myths-alone/>

-

For more climate policy news, visit:

Energy and Environment Daily: <http://www.eenews.net/eed/>

Climate Wire: <http://www.eenews.net/cw/>

Inside EPA: <http://insideepa.com/climate>

Daily Environment Report:** <http://news.bna.com/deln/>

BNA articles – hit 'skip' if asked to log in



Climate news round-up is produced for staff of the United States Environmental Protection Agency (U.S. EPA). It includes links to news on climate-change science and policy, energy and technology issues, and press coverage from the U.S. and abroad. Opinions expressed in **climate news round-up** articles do not necessarily reflect the views of U.S. EPA or its staff.

Please direct **climate news round-up** questions, comments, and suggestions to Tasfia Nayem (Nayem.Tasfia@epa.gov)



Please consider the environment before printing this email

From: Sanders, Maria

Location: WJC-N 5400 + Leader Call In #er:

Internal conference line

Importance: Normal

Subject: Accepted: Conf. Call with States on CPP Stay (Confirmed)

Start Date/Time: Tue 2/16/2016 6:00:00 PM

End Date/Time: Tue 2/16/2016 7:00:00 PM

From: Schmidt, Lorie

Location: WJC-N 5400 + Leader Call In #er:

Internal conference line

Importance: Normal

Subject: Accepted: Conf. Call with States on CPP Stay (Confirmed)

Start Date/Time: Tue 2/16/2016 6:00:00 PM

End Date/Time: Tue 2/16/2016 7:00:00 PM

From: Rosenberg, Julie

Location: WJC-N 5400 + Leader Call In #er:

Internal conference line

Importance: Normal

Subject: Accepted: Conf. Call with States on CPP Stay (Confirmed)

Start Date/Time: Tue 2/16/2016 6:00:00 PM

End Date/Time: Tue 2/16/2016 7:00:00 PM

From: Miller, Julia

Location: WJC-N 5400 + Leader Call In #er:

Internal conference line

Importance: Normal

Subject: Accepted: Conf. Call with States on CPP Stay (Confirmed)

Start Date/Time: Tue 2/16/2016 6:00:00 PM

End Date/Time: Tue 2/16/2016 7:00:00 PM

From: Microsoft Outlook
Location: WJC-N 5400 + Leader Call In #er: **Internal conference line**
Importance: Normal
Subject: Meeting Forward Notification: Conf. Call with States on CPP Stay (Confirmed)
Start Date/Time: Tue 2/16/2016 6:00:00 PM
End Date/Time: Tue 2/16/2016 7:00:00 PM

Your meeting was forwarded

Rosenberg, Julie has forwarded your meeting request to additional recipients.

Meeting

Conf. Call with States on CPP Stay (Confirmed)

Meeting Time

Tuesday, February 16, 2016 1:00 PM-2:00 PM.

Recipients

Miller, Julia

All times listed are in the following time zone: (UTC-05:00) Eastern Time (US & Canada)

Sent by Microsoft Exchange Server 2016

From: Kornylak, Vera S.
Location: WJC-N 5400 + Call In #er: TBD
Importance: Normal
Subject: Accepted: HOLD || Call with States on CPP Stay (Tentative)
Start Date/Time: Tue 2/16/2016 6:00:00 PM
End Date/Time: Tue 2/16/2016 7:00:00 PM

From: Garner, Dorothy
Location: WJC-N 5400 + Call In #er: TBD
Importance: Normal
Subject: Accepted: HOLD || Call with States on CPP Stay (Tentative)
Start Date/Time: Tue 2/16/2016 6:00:00 PM
End Date/Time: Tue 2/16/2016 7:00:00 PM

To: McCabe, Janet[McCabe.Janet@epa.gov]
From: Drinkard, Andrea
Sent: Wed 2/17/2016 2:00:27 AM
Subject: Re: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Oh good, glad to hear it. :) so sorry to have missed it.

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Andrea Drinkard
 (o) 202.564.1601
 (c) 202.236.7765

On Feb 16, 2016, at 7:51 PM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

The call went well.

Ex. 6 - Personal Privacy

From: Drinkard, Andrea
Sent: Tuesday, February 16, 2016 8:38 AM
To: McCabe, Janet <McCabe.Janet@epa.gov>
Cc: Goffman, Joseph <Goffman.Joseph@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Noonan, Jenny <Noonan.Jenny@epa.gov>; Miller, Julia <Miller.Julia@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Fraser, Scott <Fraser.Scott@epa.gov>; Dennis, Allison <Dennis.Allison@epa.gov>
Subject: Re: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Just an FYI, Vera and Jenny are picking up the Q&A prep, Scott Fraser will be on point to run the leader view for the call. Let us know if there's anything you need.

Andrea Drinkard

(o) 202.564.1601

(c) 202.236.7765

On Feb 16, 2016, at 5:34 AM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

Thanks Andrea.

Ex. 5 - Deliberative

Sent from my iPhone

On Feb 15, 2016, at 8:43 PM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:

Email 2 of 2.

Andrea Drinkard

(o) 202.564.1601

(c) 202.236.7765

Begin forwarded message:

From: "Miller, Julia" <Miller.Julia@epa.gov>

Date: February 15, 2016 at 3:06:53 PM EST

To: "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>

Cc: "Rosenberg, Julie" <Rosenberg.Julie@epa.gov>, "Lemon, Mollie" <Lemon.Mollie@epa.gov>, "Torres, Elineth" <Torres.Elineth@epa.gov>

Subject: Fwd: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Hi all,

These are the top Qs from AAPCA for tomorrow's call with states. I expect to get Qs from NACAA, NASEO and NARUC either this afternoon or tomorrow morning and will pass those along as soon as I receive them.

-Julia

Begin forwarded message:

From: Clint Woods <cwoods@csg.org>
Date: February 15, 2016 at 2:17:39 PM EST
To: "Miller, Julia" <Miller.Julia@epa.gov>
Subject: **RE: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan**

Julia,

Thanks so much for the call on Friday – Sorry I missed you. Below are the questions, in priority order, that we are hearing from our members regarding the stay:

1. Does EPA expect that, if the Clean Power Plan is ultimately upheld, the deadlines would be tolled by the amount of time the Supreme Court's stay remains in place? If not, why would the Agency depart from recent practice?
2. Does EPA intend to continue with CPP-related activity like the April 7 biomass workshop, coordination/development of the State Plan Electronic Collection System (SPeCS), or CEIP participation during the stay?
3. Does EPA expect that the stay will change the timelines for any other proposed or final rules, including Paris-related GHG programs?
4. How does the stay affect EPA's FY17 budget request, including \$25 million request for state CPP activities, and FY16 resources/staffing levels? Will staff and resources be redistributed to core air programs during the stay?

Clint Woods

Executive Director

Association of Air Pollution Control Agencies

2760 Research Park Dr.

Lexington, KY 40511

859.244.8040 – office

cwoods@csg.org

<http://www.cleanairact.org>

<image003.jpg>

From: Miller, Julia [<mailto:Miller.Julia@epa.gov>]

Sent: Friday, February 12, 2016 3:50 PM

To: Phil Assmus (passmus@4cleanair.org); Clint Woods; Miles Keogh; Jennifer Murphy; D Terry

Cc: Drinkard, Andrea; Rosenberg, Julie; Mitchell, Ken; Millett, John; Rupp, Mark; Noonan, Jenny; Wortman, Eric; Kornylak, Vera S.; Wood, Anna

Subject: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Dear Colleague:

We are pleased to invite you to participate in a call with Acting Assistant Administrator Janet McCabe to discuss the recent Supreme Court stay of implementation and enforcement of the Clean Power Plan pending judicial review.

Background

On February 9, 2016, the Supreme Court stayed implementation and enforcement of the Clean Power Plan pending judicial review. EPA firmly believes the Clean Power Plan will be upheld when the merits are weighed by the court because the Clean

Power Plan rests on strong scientific and legal foundations. During the pendency of the stay, implementation and enforcement of the Clean Power Plan are on hold. EPA will continue to work with states that want to work with us on a voluntary basis.

Date: February 16, 2016

Time: 1:00pm Eastern

Call-in: Not Responsive, conference ID Not Responsive

Please dial in 10 minutes before your call's start time to ensure your participation.

We look forward to your participation. Information about the Clean Power Plan can be found on our website:
www.epa.gov/cleanpowerplan

To: McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]
Cc: Friedman, Kristina[Friedman.Kristina@epa.gov]; Gunning, Paul[Gunning.Paul@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Krieger, Jackie[Krieger.Jackie@epa.gov]; Shoaff, John[Shoaff.John@epa.gov]; Gordon, Jessica M[Gordon.Jessica@epa.gov]; Terry, Sara[Terry.Sara@epa.gov]; Ashley, Jackie[Ashley.Jackie@epa.gov]
From: Niebling, William
Sent: Tue 2/16/2016 11:15:18 PM
Subject: FW: Draft briefing paper for Premier Couillard visit
DRAFT Quebec Premier TPs - 2-16-16 wln.docx

Janet and Joe – attached is the draft of the points on our issues for the Administrator's meeting with the Quebec premier.

Ex. 5 - Deliberative

Ex. 5 - Deliberative

Thanks,

Wm.

From: Friedman, Kristina
Sent: Tuesday, February 16, 2016 6:06 PM
To: Niebling, William <Niebling.William@epa.gov>
Cc: Gunning, Paul <Gunning.Paul@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Krieger, Jackie <Krieger.Jackie@epa.gov>; Shoaff, John <Shoaff.John@epa.gov>; Gordon, Jessica M <Gordon.Jessica@epa.gov>; Terry, Sara <Terry.Sara@epa.gov>; Ashley, Jackie <Ashley.Jackie@epa.gov>
Subject: RE: Draft briefing paper for Premier Couillard visit

Hi William,

Here's an initial draft of key messages/background for the Premier's visit on Friday for your review. We focused on the main topics noted below and in the memo. Once finalized, we'd like to share with staff across OAR who helped pull together this information. Please let us know if you need anything else.

Thanks,

Kristina

From: Niebling, William

Sent: Thursday, February 11, 2016 9:32 AM

To: Gunning, Paul <Gunning.Paul@epa.gov>; Friedman, Kristina <Friedman.Kristina@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Krieger, Jackie <Krieger.Jackie@epa.gov>; Shoaff, John <Shoaff.John@epa.gov>; Gordon, Jessica M <Gordon.Jessica@epa.gov>

Subject: FW: Draft briefing paper for Premier Couillard visit

Ex. 5 - Deliberative

Thanks.

-Wm.

From: Teel, Pam

Sent: Wednesday, February 10, 2016 2:34 PM

To: Niebling, William <Niebling.William@epa.gov>

Cc: Gunning, Paul <Gunning.Paul@epa.gov>; Franklin, Pamela <Franklin.Pamela@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Gordon, Jessica M <Gordon.Jessica@epa.gov>; Krieger, Jackie <Krieger.Jackie@epa.gov>

Subject: Draft briefing paper for Premier Couillard visit

Attached is a very draft briefing paper, as well as the Dec. letter from the Premier requesting the meeting. I understand now that the meeting is to last ½ hr. I'm still waiting to my invitation but have asked that at least OAR/Wm. Niebling should receive an invite, as I don't know who from OAR needs to be there.

The paper has names of the Canadian participants and basically lays out what items will be discussed (OAR participants need to be added). If you have additional items that you think should be included, please advise.

Needed from OAR by Tuesday, Feb. 16 COB/Wednesday, Feb. 17 OOB:

Background and Talking points on Clean Power Plan, Canadian hydropower, carbon pricing, and possible future collaboration between US and Canada on clean air and energy efficiency.

Let me know if you have any questions at all. Thanks!

Pam

Pam Teel, Program Manager for Canada

Office of International and Tribal Affairs/North America Programs

U.S. Environmental Protection Agency

Tel. 202-564-6424

<http://www.epa.gov/>

<http://www2.epa.gov/international-cooperation/epa-efforts-north-america>

From: Niebling, William

Sent: Thursday, January 28, 2016 11:42 AM

To: Teel, Pam <Teel.Pam@epa.gov>

Cc: Almodovar, Lisa <Almodovar.Lisa@epa.gov>; Correa, Sylvia <Correa.Sylvia@epa.gov>; Kasman, Mark <Kasman.Mark@epa.gov>; Gunning, Paul <Gunning.Paul@epa.gov>; Franklin, Pamela <Franklin.Pamela@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Gordon, Jessica M <Gordon.Jessica@epa.gov>; Krieger, Jackie <Krieger.Jackie@epa.gov>

Subject: RE: RE: ATTN: Gina McCarthy / Quebec Premier Visit to Washington, Feb. 19 / Meeting request

Ex. 5 - Deliberative

Thanks,

Wm.

From: Teel, Pam

Sent: Tuesday, January 26, 2016 11:47 AM

To: Niebling, William <Niebling.William@epa.gov>

Cc: Almodovar, Lisa <Almodovar.Lisa@epa.gov>; Correa, Sylvia <Correa.Sylvia@epa.gov>; Kasman, Mark <Kasman.Mark@epa.gov>

Subject: Re: RE: ATTN: Gina McCarthy / Quebec Premier Visit to Washington, Feb. 19 / Meeting request

Hi William,

Yes, I think I've survived the snow - thank you.

And thanks for your offer to help out. As this is the first information I've received on the Quebec Premier's visit (except for holding the date), I haven't had time to fully scope out what it will involve, but you could certainly help by letting me know if there are items that we want to put on the agenda besides those the Premier's staff has suggested. Also, please let me know who on your staff needs to be kept in the loop as the briefing paper is prepared.

Thanks again,

Pam

Pam Teel, Program Manager for Canada

Office of International and Tribal Affairs

Tel. 202-564-6424

From: Niebling, William
Sent: Tuesday, January 26, 2016 9:57 AM
To: Teel, Pam
Subject: FW: RE: ATTN: Gina McCarthy / Quebec Premier Visit to Washington, Feb. 19 / Meeting request

Pam – hope you are doing well and surviving the snow. Please let me know how we can pitch in on briefers, etc for this meeting. Seems like the issues are mostly OAR ones.

-Wm.

From: Nishida, Jane
Sent: Tuesday, January 26, 2016 9:55 AM
To: Niebling, William <Niebling.William@epa.gov>
Subject: RE: RE: ATTN: Gina McCarthy / Quebec Premier Visit to Washington, Feb. 19 / Meeting request

Yes, Pam will be putting the briefing papers together for this meeting.

From: Niebling, William
Sent: Tuesday, January 26, 2016 9:52 AM
To: Nishida, Jane <Nishida.Jane@epa.gov>
Subject: RE: RE: ATTN: Gina McCarthy / Quebec Premier Visit to Washington, Feb. 19 / Meeting request

Thanks! Is Pam Teel the right OITA POC for this meeting? Just want to make sure we help as much as we can on briefing papers, etc.

From: Nishida, Jane
Sent: Tuesday, January 26, 2016 9:35 AM
To: Niebling, William <Niebling.William@epa.gov>
Subject: FW: RE: ATTN: Gina McCarthy / Quebec Premier Visit to Washington, Feb. 19 / Meeting request

FYI

From: Rupp, Mark
Sent: Tuesday, January 26, 2016 9:34 AM
To: Kaplan, Robert <kaplan.robert@epa.gov>; Nishida, Jane <Nishida.Jane@epa.gov>; Davis, Cameron <Davis.Cameron@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>
Subject: Fwd: RE: ATTN: Gina McCarthy / Quebec Premier Visit to Washington, Feb. 19 / Meeting request

See below. Anything we'd want to tee up in addition?

----- Forwarded message -----

From: "Tremblay, Frederic" <Frederic.Tremblay@mri.gouv.qc.ca>
Date: Tue, Jan 26, 2016 at 6:30 AM -0800
Subject: RE: ATTN: Gina McCarthy / Quebec Premier Visit to Washington, Feb. 19 / Meeting request
To: "Rupp, Mark" <Rupp.Mark@epa.gov>



Dear Mark,

I would like to thank you for your support in securing the meeting between Premier Couillard and Administrator McCarthy on February 19, at 10 am.

As mentioned in the letter, Premier Couillard would like to address the issues of the Clean Power Plan and the Canadian hydropower, carbon pricing and investment in the clean economy and public health, and possibilities of collaboration.

On your side, do you know what specific issues Administrator McCarthy would like to discuss with our Premier?

Best,

Frederic

De : Tremblay, Frederic

Envoyé : 6 janvier 2016 11:23

À : Rupp, Mark

Objet : ATTN: Gina McCarthy / Quebec Premier Visit to Washington, Feb. 19 / Meeting request

Mark Rupp, Deputy Associate Administrator

rupp.mark@epa.gov

202-564-7178

Dear Mark :

Happy New Year!

I can now officially confirm that the Premier of Québec, Philippe Couillard, will be in Washington for an official visit to the United States on February 19.

The attached letter to Administrator McCarthy from Delegate General Jean-Claude Lauzon was sent to her office's attention on December 22.

Grateful for your assistance in ensuring this request is received by the correct person in the Administrator's office, and for any words of support you might be able to offer. As you know, there are numerous opportunities for continued regional collaboration between Québec and the United States in environmental protection. With your help, the premier looks forward to the opportunity to continue these discussions.

If you have any questions or if we can provide further clarification, please do not hesitate to reach out.

Best regards,

Frederic

Frédéric Tremblay | Directeur / Director

Bureau du Québec à Washington / Québec Government Office in Washington

Office : (202) 659-8990 x59312

Cell : (202) 465-5622

@FTremblay_DC

805 15th Street, NW, Suite 450

Washington, DC 20005

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Cc: Pat King-Powers [Ex. 6 - Personal Privacy]
To: McCabe, Janet[McCabe.Janet@epa.gov]; Shaw, Betsy[Shaw.Betsy@epa.gov]
From: Tom Powers
Sent: Tue 2/16/2016 9:57:42 PM
Subject: Coming to DC

Hi, Janet and Betsy -

Hope you guys are surviving all your snow and ice down there, along with last week's ridiculous Supreme Court stay decision on the CPP. Pat and I are going to be in DC next Monday afternoon and evening (the 22nd). Any chance of getting you and perhaps any IQ folks who might be around together for a little dinner somewhere near the office around 7pm or 7:30pm? Our timing is flexible, and we know schedules can be both tight and changeable, but thought we'd take a shot.

Hope to see you Monday.

Tom

To: McCabe, Janet[McCabe.Janet@epa.gov]; Nishida, Jane[Nishida.Jane@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]
From: Niebling, William
Sent: Tue 2/16/2016 7:24:30 PM
Subject: CPP international TPs
CPP stay intl TPs.docx

Attached, from Paul, are the talking points he mentioned Sunday. I will send to OAR folks to get into Janet's book. Jane, let me know if you want me to send it to anyone for yours or if you will handle.

Thanks,

Wm.

William L. Niebling

Office of Air and Radiation

U.S. Environmental Protection Agency

tel: 202.564.9616

fax: 202.564.1408

To: Stine, John (MPCA)[john.stine@state.mn.us]; McCabe, Janet[MCCabe.Janet@epa.gov]
Cc: Pederson, Molly (GOV)[molly.pederson@state.mn.us]; Thornton, J. David (MPCA)[j.david.thornton@state.mn.us]; Alex Dunn (adunn@ecos.org)[adunn@ecos.org]
From: Rupp, Mark
Sent: Tue 2/16/2016 6:45:21 PM
Subject: Re: CPP Call follow up

Governor Dayton and you and your team are great. Thank you.

We look forward to working together in the ways that we can.

On Tue, Feb 16, 2016 at 10:42 AM -0800, "Stine, John (MPCA)" <john.stine@state.mn.us> wrote:

Janet, Mark - Thanks for today's very timely and informative call.

You have already seen the statement that Governor Mark Dayton released last week, expressing our intention to move forward with our clean energy efforts and Clean Power Plan stakeholder processes. I anticipate sending a letter directly to the EPA Administrator later this week or early next week declaring MN's specific intentions. In that letter, I will articulate any specific needs or requests for assistance.

Best regards,

John Linc Stine

Commissioner

MN Pollution Control Agency

651-757-2014 (office)

Twitter: @JLincStine



MPCA's Mission: protect and improve the environment and enhance human health. Join us!

To: McCabe, Janet[McCabe.Janet@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]
Cc: Thornton, J. David (MPCA)[j.david.thornton@state.mn.us]; Alex Dunn
(adunn@ecos.org)[adunn@ecos.org]; Pederson, Molly (GOV)[Molly.Pederson@state.mn.us]
From: Stine, John (MPCA)
Sent: Tue 2/16/2016 6:42:27 PM
Subject: CPP Call follow up

Janet, Mark - Thanks for today's very timely and informative call.

You have already seen the statement that Governor Mark Dayton released last week, expressing our intention to move forward with our clean energy efforts and Clean Power Plan stakeholder processes. I anticipate sending a letter directly to the EPA Administrator later this week or early next week declaring MN's specific intentions. In that letter, I will articulate any specific needs or requests for assistance.

Best regards,

John Linc Stine

Commissioner

MN Pollution Control Agency

651-757-2014 (office)

Twitter: @JLincStine



Minnesota Pollution Control Agency

MPCA's Mission: protect and improve the environment and enhance human health. Join us!

To: McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]
From: Stewart, Lori
Sent: Tue 2/16/2016 4:41:01 PM
[16-000-4383_3.pdf](#)

In case you don't have this yet...statement by Cheryl LaFleur

From: Knapp, Kristien
Sent: Friday, February 12, 2016 5:48 PM
To: Stewart, Lori <Stewart.Lori@epa.gov>
Subject: FW: AX-16-000-4383

FYI.

Thu Feb 11 15:34:34 EST 2016
Yuhas.Darlene@epamail.epa.gov
FW: My statement on SCOTUS stay
To: CMS.OEX@epamail.epa.gov; Gaines.Cynthia@epamail.epa.gov

From: Cheryl LaFleur **Not Responsive**
Sent: Wednesday, February 10, 2016 5:23 PM
To: Mccarthy, Gina <McCarthy.Gina@epa.gov>; Mccarthy, Gina <McCarthy.Gina@epa.gov>
Subject: My statement on SCOTUS stay

Gina

I wanted to let you know that, in response to press inquiries, I released the attached statement on the Supreme Court stay of the Clean Power Plan—the link is below.

Thinking of you today – hang in there.

Best,

Cheryl

<http://www.ferc.gov/media/statements-speeches/lafleur/2016/02-10-16-lafleur.asp#.Vru3MLIrK70>

*Commissioner Cheryl A. LaFleur
Federal Energy Regulatory Commission
888 First St., N.E.
Washington, D.C. 20426*

202-502-8961
Not Responsive

To: McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]
Cc: Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Green, Gregory[Green.Gregory@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; Santiago, Juan[Santiago.Juan@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]
From: Wood, Anna
Sent: Tue 2/16/2016 2:29:25 PM
Subject: FW: Energy Symposium Clean Power Plan Panel
[MorganStanleyNACPP20160210359626.pdf](#)

FYI, attached is a report from Morgan Stanley that you might find interesting. Eddie Terril from OK mentioned it to me last week at 3N and I asked him to send it to me. I attached it as a PDF as that might make it easier to print out in case you want to read it, thx

From: Terrill, Eddie [mailto:Eddie.Terrill@deq.ok.gov]
Sent: Tuesday, February 16, 2016 8:01 AM
To: Wood, Anna <Wood.Anna@epa.gov>
Subject: FW: Energy Symposium Clean Power Plan Panel

Anna, good to see you last week. The CPP analysis I mentioned is below. Take care and hope to see you at NACAA in Santa Fe.

From: Tyler Powell [mailto:Tyler.Powell@ee.ok.gov]
Sent: Thursday, February 11, 2016 3:07 PM
To: Michael Teague; Thompson, Scott; Terrill, Eddie
Subject: FW: Energy Symposium Clean Power Plan Panel

Some interesting numbers from Morgan Stanley below on CPP.

Tyler Powell

Deputy Secretary of Environment

State of Oklahoma

From: Jamie Mahne [mailto:jmahne@teainc.org]
Sent: Thursday, February 11, 2016 9:04 AM
To: Tyler Powell; Citta Jr., Joseph L.; 'Jolene Thompson'; ehwarner@santeecooper.com
Cc: Christie Smith
Subject: Energy Symposium Clean Power Plan Panel

All,

Obviously, the Supreme Court's stay of the Clean Power Plan is big news and will have impacts on how we approach the Clean Power Panel at the Energy Symposium. However, we still intend to have the panel and we can add to the discussion how (or if) the stay has impacted your plans and preparation for the CPP.

As an aside, I found Morgan Stanley's take interesting (below) and thought I'd forward along. Talk to (most of you) Monday.

Thank you,

Jamie Mahne | Vice President, Client Services & Chief Client Officer

p: 904.360.1374 | m: 228.332.0008 | e: jmahne@teainc.org

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From: de Latour, Alexandre [<mailto:alexandre.de.latour@morganstanley.com>]

Sent: Thursday, February 11, 2016 8:19 AM

To: Alexandre.De.Latour@morganstanley.com

Subject: Diversified Utilities / IPPs: Clean Power Plan: Supreme Court Stay Has Only Modest Impacts

From: Byrd, Stephen (Research)

Sent: Thursday, February 11, 2016 12:04 AM

To: de Latour, Alexandre (COMMOD)

Subject: Diversified Utilities / IPPs: Clean Power Plan: Supreme Court Stay Has Only Modest Impacts

FEBRUARY 11, 2016 GMT

Diversified Utilities / IPPs

Clean Power Plan: Supreme Court Stay Has Only Modest Impacts

Morgan Stanley Research
North America

[Stephen C Byrd](#)
+1 212 761-3865

[Devin McDermott](#)
+1 212 761-1125

[David Arcaro](#)
+1 212 761-1817

[Jim Kobus](#)
+1 212 761-6586

[Arman Tabatabai](#)
+1 212 761-6358

[Download the complete report \(15 pgs\)](#)

We believe the Supreme Court's stay of the EPA carbon rule will have only modest sector impacts because (1) market factors (low natural gas prices, low-cost renewables) and renewable tax credit extension will drive large carbon reductions and (2) we expect the rule to withstand legal challenges.

On February 9, the Supreme Court, in a 5-4 order, halted the implementation of the EPA's Clean Power Plan (CPP), a carbon regulation expected to reduce power sector carbon emissions 32% from 2005 levels by 2030. This is the first time the Supreme Court has ever stayed an EPA regulation prior to legal challenges being resolved at lower courts. The following are key takeaways from our perspective:

[Diversified Utilities / IPPs](#)

Industry View : In-Line

1. Timing. The Washington, DC, Circuit Court of Appeals will hear challenges to the rule, with briefs due in April and hearings set to begin on June 2 (with a decision by late summer or early fall). It will likely not be until the first half of 2017 that the Supreme Court will hear the case (we believe it is highly likely the Supreme Court will grant certiorari given the Court stayed this rule). Assuming the rule withstands legal challenge (which we believe to be the case), states that have challenged the CPP (27 states in all) would then submit their implementation plans at some point in 2018, with significant capex beginning in 2020 at the earliest. It is possible that the states supportive of the CPP's carbon reduction goals could move forward on state-level carbon reduction plans.

[Exelon Corp](#) | [Calpine Corp.](#) | [Dynegy Inc.](#) | [NRG Energy Inc](#) | [American Electric Power Co](#) | [FirstEnergy Corp](#) | [Public Service Enterprise Group Inc](#) | [SunPower Corp](#) | [Pattern Energy Group Inc](#) | [SolarCity Corp](#) | [NRG Yield Inc](#) | [Sunrun Inc](#)

[Regulated Utilities](#) | [YieldCos](#) | [Clean Tech](#)

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2. Impacts are likely modest, whether the CPP withstands legal challenge, is overturned in court, or is somehow diluted by the next president. We continue to expect the rule to have only modest impacts on power markets and minimal customer rate impacts, as our analysis shows that coal retirements, economics-driven fuel switching and renewables development will drive a natural ~28% reduction in CO₂ by 2030 (versus the 32% target under the rule). The final rule puts significant emphasis on emissions trading, which in our

view allows states with excess emissions reductions to monetize them by selling to states with shortfalls, promoting economically efficient carbon reductions in regions where costs are lowest.

3a. Long-term implications for regulated utilities.

The CPP is a modest positive for several fully-regulated utilities with large carbon footprints, especially in the Southeast (including DUK, D, NEE, AEE in Missouri, XEL, and SO), given the amount of capital required to de-carbonize the region in a "go-it-alone" strategy (\$50b in the Southeast alone).

3b. Long-term implications for clean energy

companies and Yieldcos. The CPP is a tailwind for the already attractive growth outlook of wind and solar. We believe rooftop solar stocks (SCTY, RUN and indirectly NYLD) have minimal exposure to the CPP, in the sense that rooftop solar economics are driven by the recent extension of the Investment Tax Credit (ITC) for solar (passed by Congress in December 2015) and by state-level net metering policy. Stocks driven by large-scale solar and wind development (NEE, NEP, PEGI, SPWR and FSLR) will in our view not see any near-term (2016-18) reductions in new procurements by states/utilities if the CPP is overturned or diluted, but could see a slowdown in large-scale solar/wind procurements later in the decade if the CPP is overturned in court or diluted by the next President. Currently, we believe these stocks are reflecting minimal to no growth beyond 2018 (in the case of PEGI, SCTY, RUN and NYLD, we believe these stocks are reflecting no growth beyond 2016). We would note that wind power in the Midwest US is now the lowest-cost form of new power generation in the US, with a required revenue of \$.015-.03/kWh with the benefit of the wind Production Tax Credit (PTC), also recently extended by Congress (or ~\$.015/kWh higher without the benefit of the PTC). This compares favorably to the revenue required for a new, highly efficient natural gas-fired power plant (of \$.055-.07/kWh). As a result, we see wind development being in part based on pure economics rather than on the Clean Power Plan - but on the margin, several Midwest states will likely choose to retire fewer coal-fired power plants if the CPP is overturned or diluted. Stocks most exposed to wind power development are in our view NEE, NEP and PEGI.

3c Long-term implications for merchant power

stocks. The impacts from the CPP are modest in our view, with most poised to benefit from the CPP. Low carbon generators EXC and CPN are likely key beneficiaries of the CPP, given their "carbon-lite" portfolio. NRG is often incorrectly flagged as one of the most negatively exposed companies to the CPP. Instead, we see the company as positively levered under most scenarios given its coal-to-gas conversion strategy, capacity-payment driven cash-flow, carbon capture optionality in TX, and investment in renewables. DYN has a well-balanced portfolio, with its coal plants (~15% of 2017e EBITDA) benefitting from the CPP

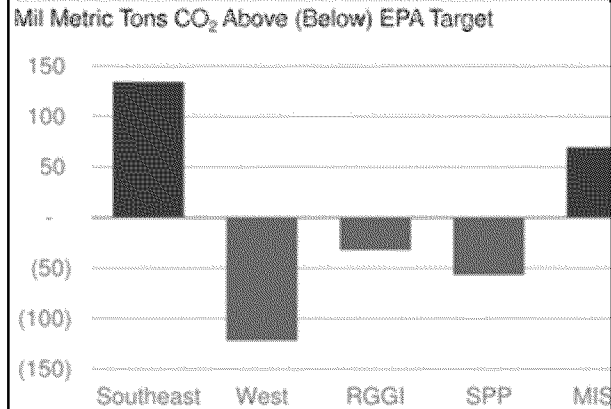
being negated and its gas-fired plants (~85% of 2017e EBITDA) benefitting from the CPP remaining in effect.

4. CPP compliance costs are low under most scenarios. We see a nationwide cap and trade program as the lowest cost compliance methodology, at only ~\$1.6b annually. Our base case assumes renewables naturally comprise ~23-24% of total US installed capacity by 2030, given attractive economics. From a commodity standpoint, we expect flat power sector gas demand from current levels (~25 Bcf/d), but meaningful reductions in coal burn (~600mt of consumption in 2030). Alternatively, we have also developed six potential trading regional trading blocs, given the political challenges of national cooperation, which result in higher, but still modest compliance costs.

5. Based on discussions with a wide variety of constituents, we believe the CPP will withstand legal challenge, though we appreciate that 5 Supreme Court Justices voting for a stay indicates the CPP will be subject to intense legal scrutiny. The rule was tailored in a way that in our view reduces the risk of being overturned, by setting limits by generation type, by providing states significant freedom in terms of compliance approach, and by providing significant technical support for its quantification of "Best System of Emission Reduction" (or BSER). Opponents of the CPP have argued that the EPA's usage of this phrase is overly broad, but we believe the discretion that is afforded federal agencies in interpreting statutes will aid the EPA in its defense of its interpretation (and excluding energy efficiency measures from the "building blocks" used in the final rule is in our view helpful to the EPA's position). In addition, while the EPA's Cross State Air Pollution Rule withstood legal challenge, its Mercury Air Toxics Standard (MATS) rule did not. In the MATS case, the Supreme Court ruled that the EPA unreasonably refused to consider costs in determining whether it was appropriate to regulate pollutants from power plants. However, in the MATS case, the benefit of the reduction in mercury emissions was in our view modest relative to the costs of compliance, whereas for the CPP we believe EPA has provided significant evidence of a large benefit relative to the cost of compliance. The EPA has stated that the public health benefit from the CPP will be between \$55b and \$93b, while the compliance cost would be between \$7.3b and \$8.8b. However, the legal challenges to the CPP will likely be less focused on the cost-benefit issue that was prevalent in the MATS litigation, and more on the specific language in the Clean Air Act and whether the EPA overstepped its authority under the Clean Air Act. Section 111(d) of the Clean Air Act will in our view be a key element of litigation, and unfortunately we have limited legal precedent regarding this particular provision. There is also an unusual legal issue to consider in this case: the House and Senate versions of the Clean Air Act were never reconciled, and one allows for regulation of carbon dioxide from power plants while the other may not. The EPA chose the Senate version,

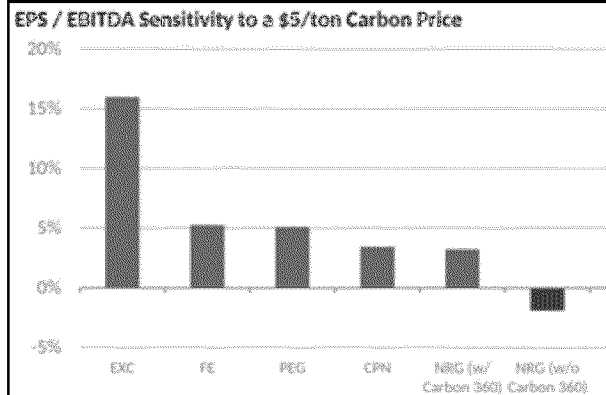
and provided arguments in support of its choice. The Supreme Court's decision on this case (assuming the Supreme Court takes the case, which we view as highly likely) may very well be driven by the Court's view of the scope of deference that should be afforded a federal agency in interpreting a statute.

We See Excess Reductions in West, SPP and RGGI;
Shortfall in Southeast & MISO



Source: Morgan Stanley Research

Nuclear-Heavy Generators Positively Levered to Potential CO₂ Pricing



Source: Morgan Stanley Research

[Download the complete report \(15 pgs\)](#)

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Morgan Stanley

MORGAN STANLEY RESEARCH

February 11, 2016

Diversified Utilities / IPPs

Clean Power Plan: Supreme Court Stay Has Only Modest Impacts

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MORGAN STANLEY & CO. LLC

Stephen C Byrd

Stephen.Byrd@morganstanley.com

+1 212 761-3865

Devin McDermott

Devin.McDermott@morganstanley.com

+1 212 761-1125

David Arcaro

David.Arcaro@morganstanley.com

+1 212 761-1817

Jim Kobus

Jim.Kobus@morganstanley.com

+1 212 761-6586

Arman Tabatabai

Arman.Tabatabai@morganstanley.com

+1 212 761-6358

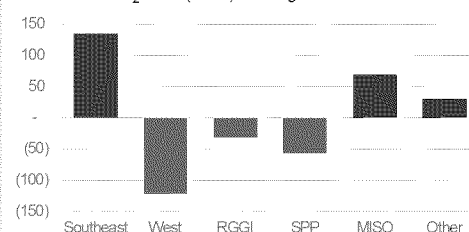
Diversified Utilities / IPPs

North America

IndustryView

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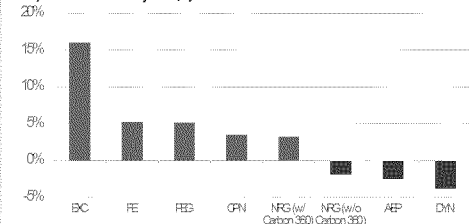
Exhibit 1: We See Excess Reductions in West, SPP and RGGI; Shortfall in Southeast & MISO

Mil Metric Tons CO₂ Above (Below) EPA Target

Source: Morgan Stanley Research

Exhibit 2: Nuclear-Heavy Generators Positively Levered to Potential CO₂ Pricing

EPS / EBITDA Sensitivity to a \$5/ton Carbon Price



Source: Morgan Stanley Research

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solar. We believe rooftop solar stocks (SCTY, RUN and indirectly NMLD) have minimal exposure to the CPP, in the sense that rooftop solar economics are driven by the recent extension of the Investment Tax Credit (ITC) for solar (passed by Congress in December 2015) and by state-level net metering policy. Stocks driven by large-scale solar and wind development (NEE, NEP, FEGI, SPWR and FSLR) will in our view not see any near-term (2016-18) reductions in new procurements by states/utilities if the CPP is overturned or diluted, but could see a slowdown in large-scale solar/wind procurements later in the decade if the CPP is overturned in court or diluted by the next President. Currently, we believe these stocks are reflecting minimal to no growth beyond 2018 (in the case of FEGI, SCTY, RUN and NMLD, we believe these stocks are reflecting no growth beyond 2016). We would note that wind power in the Midwest US is now the lowest-cost form of new power generation in the US, with a required revenue of \$0.15-.03/kWh with the benefit of the wind Production Tax Credit (PTC), also recently extended by Congress (or ~\$0.15/kWh higher without the benefit of the PTC). This compares favorably to the revenue required for a new, highly efficient natural gas-fired power plant (of \$0.55-.07/kWh). As a result, we see wind development being in part based on pure economics rather than on the Clean Power Plan - but on the margin, several Midwest states will likely choose to retire fewer coal-fired power plants if the CPP is overturned or diluted. Stocks most exposed to wind power development are in our view NEE, NEP and FEGI.

3c Long-term implications for merchant power stocks. The impacts from the CPP are modest in our view, with most poised to benefit from the CPP. Low carbon generators EXC and CPN are likely key beneficiaries of the CPP, given their "carbon-lite" portfolio. NRG is often incorrectly flagged as one of the most negatively exposed companies to the CPP. Instead, we see the company as positively levered under most scenarios given its coal-to-gas conversion strategy, capacity-payment driven cash-flow, carbon capture optionality in TX, and investment in renewables. DYN has a well-balanced portfolio, with its coal plants (~15% of 2017e EBITDA) benefitting from the CPP being negated and its gas-fired plants (~85% of 2017e EBITDA) benefitting from the CPP remaining in effect.

4. CPP compliance costs are low under most scenarios. We see a nationwide cap and trade program as the lowest cost compliance methodology, at only ~\$1.6b annually. Our base case assumes renewables naturally comprise ~23-24% of total US installed capacity by 2030, given attractive economics. From a commodity standpoint, we expect flat power sector gas demand from current levels (~25 Bcf/d), but meaningful reductions in coal burn (~600mt of consumption in 2030). Alternatively, we have also developed six potential trading regional trading blocs, given the political challenges of national cooperation, which result in higher, but still modest compliance costs.

5. Based on discussions with a wide variety of constituents, we believe the CPP will withstand legal challenge, though we appreciate that 5 Supreme Court Justices voting for a stay indicates the CPP will be subject to intense legal scrutiny. The rule was tailored in a way that in our view reduces the risk of being overturned, by setting limits by generation type, by providing states significant freedom in terms of compliance approach, and

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by providing significant technical support for its quantification of "Best System of Emission Reduction" (or BSER). Opponents of the CPP have argued that the EPA's usage of this phrase is overly broad, but we believe the discretion that is afforded federal agencies in interpreting statutes will aid the EPA in its defense of its interpretation (and excluding energy efficiency measures from the "building blocks" used in the final rule is in our view helpful to the EPA's position). In addition, while the EPA's Cross State Air Pollution Rule withstood legal challenge, its Mercury Air Toxics Standard (MATS) rule did not. In the MATS case, the Supreme Court ruled that the EPA unreasonably refused to consider costs in determining whether it was appropriate to regulate pollutants from power plants. However, in the MATS case, the benefit of the reduction in mercury emissions was in our view modest relative to the costs of compliance, whereas for the CPP we believe EPA has provided significant evidence of a large benefit relative to the cost of compliance. The EPA has stated that the public health benefit from the CPP will be between \$55b and \$93b, while the compliance cost would be between \$7.3b and \$8.8b. However, the legal challenges to the CPP will likely be less focused on the cost-benefit issue that was prevalent in the MATS litigation, and more on the specific language in the Clean Air Act and whether the EPA overstepped its authority under the Clean Air Act. Section 111(d) of the Clean Air Act will in our view be a key element of litigation, and unfortunately we have limited legal precedent regarding this particular provision. There is also an unusual legal issue to consider in this case: the House and Senate versions of the Clean Air Act were never reconciled, and one allows for regulation of carbon dioxide from power plants while the other may not. The EPA chose the Senate version, and provided arguments in support of its choice. The Supreme Court's decision on this case (assuming the Supreme Court takes the case, which we view as highly likely) may very well be driven by the Court's view of the scope of deference that should be afforded a federal agency in interpreting a statute.

EPA Carbon: Impacts of the Supreme Court's Stay, and Implications If the CPP Withstands Legal Challenge

Overview of the Supreme Court's stay, and next legal steps. On February 9, the Supreme Court, in a 5-4 order (the 5 voting in favor of the stay were Chief Justice Roberts and Justices Scalia, Kennedy, Thomas and Alito), halted the implementation of the EPA's Clean Power Plan (CPP), a carbon regulation expected to reduce power sector carbon emissions 32% from 2005 levels by 2030. The Washington, DC Circuit Court of Appeals will hear challenges to the rule, with briefs due in April and hearings set to begin on June 2 (with a decision in late summer or early fall). It will likely not be until the first half of 2017 that the Supreme Court will hear the case (we believe it is highly likely the Supreme Court will grant certiorari given the Court stayed this rule). Assuming the rule withstands legal challenge (which we believe it will based on historical precedents), states that have challenged the CPP (27 states in all) would then submit their implementation plans at some point in 2018, with significant capex beginning in 2020 at the earliest. It is possible that the states supportive of the CPP's carbon reduction goals could move forward on state-level carbon reduction plans.

How could the next President impact the EPA's Clean Power Plan (CPP)? While we believe it is not legally permissible for a future EPA to completely reverse course and rescind the rule (there is legal precedent surrounding this topic from prior administrations), the next President, if he or she chose to do so, could potentially (1) accept a federal court's order overturning the CPP (though environmental groups would in our view succeed in bringing the case before the Supreme Court, and we believe the Supreme Court would like to hear the case given they took the highly unusual step of staying the rule), (2) sign legislation that could be passed by a Republican Congress that would repeal the CPP (though that may be challenging, both due to the risk of a Senate filibuster and the fact that the CPP is rooted in the Clean Air Act, a law originally passed by Republicans, that underpins a variety of environmental regulations), or (3) seek to modify/reduce the enforcement of the CPP. As we will show in the next section, however, we believe the CPP is less of a driver of changes to the mix of power plants in the US relative to other potent forces: low natural gas prices, lower-cost wind and solar products, and the recent extension of tax credits for both solar and wind power. In addition, some key states are subject to other environmental rules that have already survived legal challenges; for example, in Texas, we project several large coal-fired plants (~4 GW or more) will shut down due to the combined impacts of the EPA's Regional Haze rule, low natural gas prices and low-cost wind generation in the state.

Based on discussions with a wide variety of constituents, we believe the CPP will withstand legal challenge, though we appreciate that 5 Supreme Court Justices voting for a stay indicates the CPP will be subject to intense legal scrutiny. The rule was tailored in a way that in our view reduces the risk of being overturned, by setting limits by generation type, by providing states significant freedom in terms of compliance approach, and by providing significant technical support for its quantification of "Best System of Emission Reduction" (or BSER). Opponents of the CPP have argued that the EPA's usage of this phrase is overly broad, but we believe the discretion that is afforded federal agencies in interpreting statutes will aid the EPA in its defense of its interpretation (and excluding energy efficiency measures from the "building blocks" used in the final rule is in our view helpful to the EPA's position). In addition, while the EPA's Cross State Air Pollution Rule withstood legal challenge, its Mercury Air Toxics Standard (MATS) rule did not. In the MATS case, the Supreme Court ruled that the EPA unreasonably refused to consider costs in determining whether it was appropriate to regulate pollutants from power plants. However, in the MATS case, the benefit of the reduction in mercury emissions was in our view modest relative to the costs of compliance, whereas for the CPP we believe EPA has provided significant evidence of a large benefit relative to the cost of compliance. The EPA has stated that the public health benefit from the CPP will be between \$55b and \$93b, while the compliance cost would be between \$7.3b and \$8.8b. However, the legal challenges to the CPP will likely be less focused on the cost-benefit issue that was prevalent in the MATS litigation, and more on the specific language in the Clean Air Act and whether the EPA overstepped its authority under the Clean Air Act. Section 111(d) of the Clean Air Act will in our view be a key element of litigation, and unfortunately we have limited legal precedent regarding this particular provision. There is also an unusual legal issue to consider in this case: the House and Senate versions of the Clean Air Act were never reconciled, and one allows for regulation of carbon dioxide from power plants while the other may

not. The EPA chose the Senate version, and provided arguments in support of its choice. The Supreme Court's decision on this case (assuming the Supreme Court takes the case, which we view as highly likely) may very well be driven by the Court's view of the scope of deference that should be afforded a federal agency in interpreting a statute. One potentially supportive data point on this topic: the Supreme Court's recent decision which supported FERC's authority to regulate demand response. In this decision, focused on FERC Order 745, the Supreme Court majority opinion noted the broad authority of FERC to regulate demand response, and held that FERC's regulatory actions were within its authority under the Federal Power Act. On the other hand, another Supreme Court case, *King v. Burwell* (a case involving the Affordable Care Act), highlighted a situation in which the Supreme Court might not provide the typical "Chevron deference" to a federal agency when the topic is "extraordinary" and focuses on a topic of "deep economic and political significance." In that case, however, the Supreme Court ruled that "it is especially unlikely that Congress would have delegated this decision to the IRS, which has no expertise in crafting health insurance policy of this sort" - arguably the EPA is more closely linked to carbon regulation than the IRS is to health care regulation.

Overview of the EPA Clean Power Plan. On August 3, 2015, the EPA announced its final Clean Power Plan, a carbon regulation expected to reduce power sector carbon emissions 32% from 2005 levels by 2030. While the target is modestly above the initially proposed 30%, we continue to expect the rule to have only modest impacts on power markets if it withstands legal challenge, as our analysis shows that coal retirements and renewables development will drive a natural ~28% reduction in CO₂ by 2030. The final rule puts significant emphasis on utilizing emissions trading for compliance, which in our view allows states with excess emissions reductions to monetize them by selling to states with shortfalls, promoting economically efficient carbon reductions in regions where costs are lowest. In short, our findings support our view that compliance with the EPA's carbon regulation can be met with only modest costs due to the natural trajectory of the power sector. We highlight 5 key high level implications of our **analysis**:

1. Coal retirements and economics driven fuel switching drive significant progress toward the 32% target. We estimate coal retirements and economics driven coal-to-gas switching will naturally reduce power sector carbon emissions ~18-19% from 2005 levels by 2030.

2. Renewables growth is a greater-than-appreciated driver of CO₂ reductions. Expected renewables growth under our Base case, which results from attractive wind and solar economics, will likely drive another ~9% cut in CO₂ emissions from 2005 levels by 2030, net of a modest amount of demand growth. In total, we forecast a "natural" ~27-28% carbon emissions reduction in 2005-30. We forecast wind and solar will comprise ~23-24% of total US installed capacity by 2030, with or without carbon regulation.

3. Modest impact on gas demand, more meaningful for coal. We forecast 2030 gas demand from the power sector at ~25 Bcf/d, or roughly flat with current levels under our base case renewables growth. Coal demand from the power sector would be ~600mil tons/yr, by our estimates, a more meaningful drop from the ~850mil tons seen in 2013 and 2014. We see most of the coal burn reductions coming from regulated plants, rather than those owned by merchant generators. Interestingly, higher solar penetration actually benefits coal since it displaces predominantly inefficient gas generation and reduces the need for coal-to-gas fuel switching.

4. Compliance costs low under most scenarios. We see a nationwide cap and trade program as the lowest cost compliance methodology, at only ~\$1.6b annually, as it promotes economically efficient carbon reductions in regions where costs are lowest. That said, we recognize that political challenges/differences among certain states may result in regional compliance plans, rather than a national cap-and-trade program. To evaluate the regional impacts, we have broken the US into six potential trading blocs and evaluated the total carbon emissions and carbon intensity post-coal retirements, load growth, energy efficiency, and expected growth in renewables. Under separate regional trading programs, instead of a nation-wide program, we estimate customer rate impact of ~\$11b for compliance, mostly in the Southeast.

5. In isolation, Texas likely to meet carbon reduction targets naturally, Illinois likely falls short While Texas had one of the most stringent reduction targets in the proposed rule, its final compliance requirements have been scaled back meaningfully. As a result, we now forecast the state to exceed rate-based carbon emissions targets due to the buildout of wind and new gas generation within the state, and due to coal plant shutdowns driven by low power prices (which in turn are driven by low natural gas prices and plentiful low-cost

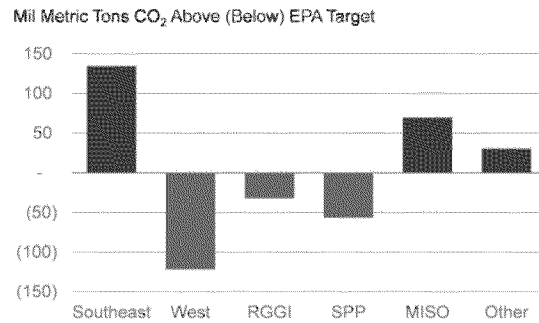
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wind farms in the state) and other EPA regulations (most no state target has become more stringent. We now expect IL to fall far short of EPA targets without significant investment, even if EXC's Quad Cities, Byron, and Clinton nuclear plants remain in operation.

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Exhibit 3: We See Excess Reductions in West, SPP and RGGI; Shortfall in Southeast & MISO



Source: Morgan Stanley Research

Stock Implications

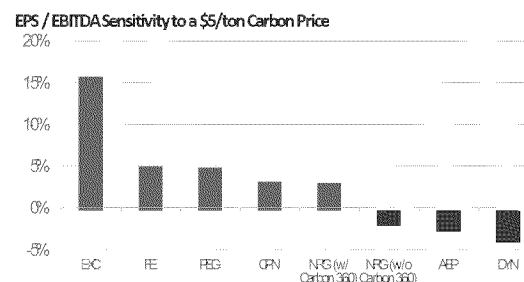
While we believe EPA's Clean Power Plan will not likely have any impact on particular stocks in the near term, there are long-term implications of this rule that are worth considering. We see renewable developers, vertically integrated regulated utilities, and low-carbon merchant generators as key beneficiaries of the rule. On the renewable developers side, we would note these stocks are broadly reflecting minimal to no growth beyond 2018 (and for FEGI, NYLD, SCTY and RUN, we calculate that the market is factoring zero growth post-2016, which we view as far too pessimistic). Interestingly, we do not see the regulation as a material headwind for the terminal profitability of coal-heavy merchant generators, relative to our current estimates. This is because our valuations already factor in low utilization rates and limited terminal profitability for merchant coal plants given our bearish long-term gas price view. To the extent investors would like to review and modify any of the assumptions we have made in our analysis, we would be happy to send our "carbon trading bloc" model to clients—just ask us for a copy.

1. "De-carbonization" investment opportunity for regulated utilities. The EPA's carbon rule is likely, somewhat counter-intuitively, a positive for several fully-regulated utilities with large carbon footprints, especially in the Southeast (including DUK, D, NEE, AEE in Missouri, XEL, SO outside of Georgia), given the amount of capital required to de-carbonize the region in a "go-it-alone" strategy. We project a minimum capex of nearly ~\$50b across the Southeast in order to meet proposed targets. We expect most of this capex to go toward renewables, particularly solar, given compelling economics. We did not include SCANA (SCG) in this group because of its existing new nuclear construction program, which already will serve to greatly de-carbonize its South Carolina fleet. For both Southern (SO) and SCANA, we believe there is some chance that these utilities could sell their excess carbon allowances to neighboring states, thereby reducing bills for their customers; however, such an outcome is purely speculative at this point and will depend on the compliance strategies chosen by utilities in neighboring states.

2. Renewable developers likely benefit. We see carbon regulation as an additional tailwind for the already attractive growth outlook of wind and solar. Solar stocks (SPWR, FSLR, SCTY, RUN and, indirectly, NYLD) may receive positive "regulatory tailwinds" to the extent Western states seek to monetize their carbon over-compliance through emissions allowance agreements with under-compliant states. Separately, we expect Southeast utilities to focus on utility scale solar deployment for carbon reductions, potentially benefitting FSLR and SPWR. In many US states, wind development is the lowest cost compliance option (aside from nation-wide cap and trade), potentially benefitting NEE, NEP and FEGI.

3. Only modest impacts to merchant generators, with most poised to benefit. Many of the traditionally coal-heavy merchant generators, such as DYN and NRG, have "decarbonized" meaningfully over the last few years as a result of coal retirements, economics driven coal-to-gas switching, acquisition and development of gas plants, and/or coal to gas conversions - a trend we expect to continue over the next several years. Furthermore, given current low gas prices, and our view that gas prices will remain low long-term, we already forecast very limited earnings and cash flow from most merchant coal assets. As a result, the implementation of carbon regulation is not a material headwind for coal-exposed generators, in most cases, relative to our current forecasts. Interestingly, we see NRG as a potential beneficiary of carbon regulations given its Carbon 360 strategy and planned investment in renewables. Separately, we see several natural gas (CPN) and nuclear focused (EXC) merchant generators as likely beneficiaries from carbon regulation, as power prices are likely to reflect the carbon emissions costs of marginal less-efficient power plants.

Exhibit 4: Most Merchant Generators Are Positively Levered to a Potential Carbon Price



Source: Morgan Stanley Research

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For complete details of our analysis, and on the structure of the Clean Power Plan, please see our note:

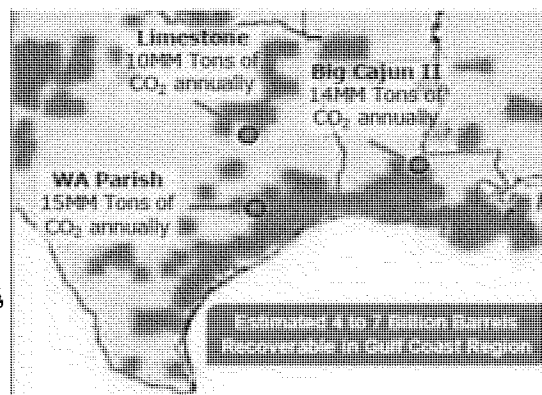
Diversified Utilities / IPPs: Clean Power Plan: Evaluating Impacts and Most / Least Advantaged Stocks (12 Aug 2015)

Merchant Sensitivities to Carbon Pricing

Contrary to the consensus view that the Clean Power Plan might dramatically alter the profitability of several merchant generators, our analysis shows only modest impacts under most scenarios, with most companies as beneficiaries of the rule. Coal power plants, which emit ~1 ton/MWh on average, are the most negatively exposed to carbon regulation, as a carbon cap-and-trade program could put downward pressure on utilization rates and margins. However, given current low gas prices, and our view that gas prices will remain low long-term, we already forecast very limited earnings and cash flow from most merchant coal assets. As a result, the implementation of a carbon regulation does not materially decrease our long-run profitability estimates for most coal-exposed generators, relative to our current forecasts. Furthermore, many of the traditionally coal-heavy merchant generators have “decarbonized” meaningfully over the last few years as a result of coal retirements, economics driven coal-to-gas switching, acquisition and development of gas plants, and/or coal to gas conversions - a trend we expect to continue over the next several years. Separately, we see several natural gas and nuclear focused merchant generators as beneficiaries from carbon regulation, as power prices are likely to reflect the carbon emissions costs of marginal less-efficient power plants. Below we highlight earnings sensitivity to a hypothetical \$5/ton carbon pricing across the merchant power and diversified utility stocks we cover:

- **Calpine (CPN, Overweight): +3.5% EBITDA.** Calpine's clean and efficient natural gas fleet appears positioned to benefit from any carbon cap and trade program via both margin and volume expansion. A typical combined cycle plant emits ~0.4 tons/MWh, less than half that of a coal plant. On net, we estimate that a \$5/ton carbon price could raise CPN's terminal year EBITDA by ~3.5%. The estimate does not reflect any margin uplift on CPN's ~725 MW geothermal plant in California, since there is already a carbon cap-and-trade program in the state.
- **Dynegy (DYN, Overweight): (4%) EBITDA.** While DYN was historically a coal-heavy generator, its capacity is now roughly half natural gas post the acquisitions of the Duke and Equipower fleets. Much of this gas capacity is efficient combined cycle generation, poised to benefit from carbon regulation. While carbon pricing would still be a net negative for the company, margin and volume expansion on the gas fleet helps offset much of the coal downside, by our estimates. We estimate that a \$5/ton carbon price could result in a modest ~4% reduction to DYN's terminal year EBITDA.
- **NRG Energy (NRG, Overweight): +3%/(2%) EBITDA.** NRG is often incorrectly flagged as one of the most negatively exposed companies to carbon regulation. If the company makes no further investments in its fleet (beyond planned coal to gas conversions), we estimate a \$5/ton carbon price could only reduce terminal EBITDA by 2%. If the company executes on its “Carbon 360” (carbon capture) initiative, we forecast NRG being positively levered to carbon prices, with each \$5/ton increasing EBITDA by ~3%. While the company historically generated most of its cash flow from coal plant energy margins, this has changed drastically as gas prices have fallen over the last 5+ years. In

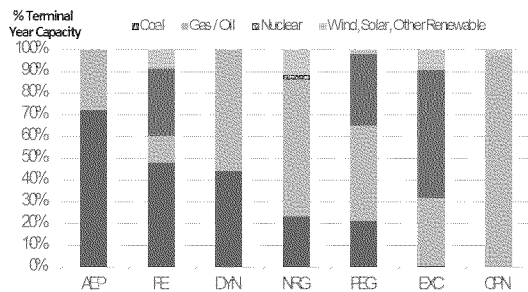
Exhibit 5: NRG's Few Remaining Baseload Coal Plants Have Carbon Capture Optionality



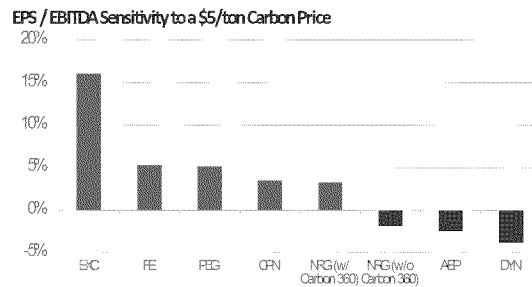
Source: NRG

the current commodity price environment, the majority of NRG's merchant generation operates as low-utilization peaking units. As a result, most of the cash flow is derived from capacity payments, rather than energy revenues. Furthermore, the company is currently in the process of converting a large portion of its remaining coal plants over to natural gas, likely positioning the company's fleet well for future carbon regulations. Post the conversions, NRG will still have three large baseload coal plants reliant on energy margins in the Gulf Coast Region. However, the company has laid out a "Carbon 360" plan to capture CO₂ emissions from these plants and use them for enhanced oil recovery or other monetization opportunities. While we do not include execution of Carbon 360 in our base case, given the unproven nature of the technology, we note it provides nice optionality for the company to monetize its remaining carbon footprint. Lastly, we note that NRG is currently moving forward with its distributed solar growth plan, a business positively exposed to carbon regulation that we do not factor into this analysis.

- ▣ **American Electric Power Co. (AEP, Equal-weight): (2.5%) EPS.** AEP's small merchant business consists of mostly coal plants, making carbon pricing a net negative to the genco on our calculations. We estimate that a \$5/ton carbon price could result in a ~2.5% reduction to our AEP terminal year EBITDA estimate. That said, AEP's vertically integrated regulated utilities appear well positioned to benefit from investment opportunities relating to the Clean Power Plan, likely more than offsetting the modest negative merchant impact, in our view.
- ▣ **Exelon Corp (EXC, ++): +16% EPS.** EXC is the most nuclear-heavy generator that we cover, and thus the most positively levered to a potential carbon price, by our estimates. Interestingly, roughly 10 G/W of EXC's nuclear fleet is located in the state of Illinois, where we see compliance with EPA targets as challenging without partnering with other states. We see this shortfall as likely incentivizing the state to partner with other "over-compliant" regions via a trading program, such as the Regional Greenhouse Gas Initiative (RGGI). We also note that IL may enact a carbon standard later this year independent of the Clean Power Plan, which could serve as a more near-term catalyst, to preserve ~5 G/W of nuclear plants which EXC has disclosed are at-risk for retirement due to challenged economics (see our analysis [here](#)). While existing nuclear plants are not directly factored into the EPA's carbon emissions calculations, shutting plants would increase reliance on old and less efficient fossil fuel plants, increasing statewide carbon emissions and carbon intensity, by our estimates. We estimate that a \$5/ton carbon price could increase our terminal year EXC EPS estimate by ~16%.
- ▣ **FirstEnergy Corp (FE, Equal-weight): +5%.** FE's sensitivity was perhaps the most surprising result to come out of our analysis. While the company is traditionally seen as a coal-heavy generator, we estimate that it is actually positively levered to a potential carbon price relative to our current estimates. This is due to the fact that our bearish gas and power assumptions already led us to model low utilization levels at FE's coal generation fleet, and thus relatively low levels of EBITDA from these assets. While a carbon price would represent a further hit to our EBITDA estimates from the company's coal fleet, we estimate that increased margins from the company's sizeable (~4 G/W) nuclear fleet would more than offset this. On net, we estimate that a \$5/ton carbon price could increase FE's terminal year EPS by ~5%.
- ▣ **Public Service Enterprise Group Inc. (PEG, Underweight): +5%.** PEG is also positively levered to potential carbon pricing on our math, due to its relatively nuclear-heavy fleet. We estimate that a \$5/ton carbon price could increase PEG's terminal year EPS by ~5%.

Exhibit 6: Nuclear-Heavy Merchant Generators...

Source: Morgan Stanley Research

Exhibit 7: ... Are the Most Positively Levered to a Potential Carbon Price

Source: Morgan Stanley Research

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Within the last 12 months, Morgan Stanley has received compensation for investment banking services from AES Corp., Ameren Corp, American Electric Power Co, Calpine Corp., Consolidated Edison Inc, Dominion Resources Inc, Duke Energy Corp, Dynegy Inc., Edison International, Entergy Corp, Exelon Corp, First Solar Inc, FirstEnergy Corp, Hannon Armstrong, ITC Holdings Corp., NextEra Energy Inc, NRG Energy Inc, ONE Gas Inc, Pepco Holdings, Inc., PPL Corp, SCANA Corp, Southern Company, Sunedison Inc, Sunrun Inc, TECO Energy Inc., Xcel Energy Inc.

In the next 3 months, Morgan Stanley expects to receive or intends to seek compensation for investment banking services from AES Corp., Ameren Corp, American Electric Power Co, Atmos Energy Corp., Calpine Corp., Consolidated Edison Inc, Dominion Resources Inc, Duke Energy Corp, Dynegy Inc., Edison International, Entergy Corp, Eversource Energy, Exelon Corp, First Solar Inc, FirstEnergy Corp, Hannon Armstrong, ITC Holdings Corp., Laclede Group Inc, NextEra Energy Inc, NRG Energy Inc, ONE Gas Inc, Pepco Holdings, Inc., PG&E Corp, Piedmont Natural Gas Company Inc, Pinnacle West Capital Corp, Plug Power Inc., PPL Corp, Public Service Enterprise Group Inc, SCANA Corp, Semptra Energy, Southern Company, Sunedison Inc, SunPower Corp, Sunrun Inc, TECO Energy Inc., Xcel Energy Inc.

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Global Stock Ratings Distribution

(as of January 31, 2016)

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STOCK RATING CATEGORY	COVERAGE UNIVERSE		INVESTMENT BANKING CLIENTS (IBC)		
	COUNT	% OF TOTAL	COUNT	% OF TOTAL IBC	% OF RATING CATEGORY
Overweight/Buy	1206	36%	323	43%	27%
Equal-weight/Hold	1432	42%	331	44%	23%
Not-Rated/Hold	79	2%	9	1%	11%
Underweight/Sell	658	19%	86	11%	13%
TOTAL	3,375		749		

Data include common stock and ADRs currently assigned ratings. Investment Banking Clients are companies from whom Morgan Stanley received investment banking compensation in the last 12 months.

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Equal-weight (E). The stock's total return is expected to be in line with the average total return of the analyst's industry (or industry team's) coverage universe, on a risk-adjusted basis, over the next 12-18 months.

Not-Rated (NR). Currently the analyst does not have adequate conviction about the stock's total return relative to the average total return of the analyst's industry (or industry team's) coverage universe, on a risk-adjusted basis, over the next 12-18 months.

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Unless otherwise specified, the time frame for price targets included in Morgan Stanley Research is 12 to 18 months.

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Attractive (A): The analyst expects the performance of his or her industry coverage universe over the next 12-18 months to be attractive vs. the relevant broad market benchmark, as indicated below.

In-Line (I): The analyst expects the performance of his or her industry coverage universe over the next 12-18 months to be in line with the relevant broad market benchmark, as indicated below.

Cautious (C): The analyst views the performance of his or her industry coverage universe over the next 12-18 months with caution vs. the relevant broad market benchmark, as indicated below.

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INDUSTRY COVERAGE: Diversified Utilities / IPPs

COMPANY (TICKER)	RATING (AS OF)	PRICE* (02/10/2016)
Devin McDermott		
Dynegy Inc. (DYN.N)	O (04/20/2015)	\$10.31
Stephen C Byrd		
AES Corp. (AES.N)	E (05/22/2014)	\$9.53
American Electric Power Co (AEP.N)	E (08/04/2014)	\$62.90
Calpine Corp. (CPN.N)	O (01/17/2012)	\$14.37
Dominion Resources Inc (D.N)	O (01/13/2014)	\$70.29
Entergy Corp (ETR.N)	E (12/15/2014)	\$71.44
Exelon Corp (EXC.N)	++	\$31.12
FirstEnergy Corp (FEN.N)	E (01/17/2012)	\$33.63
NextEra Energy Inc (NEE.N)	O (07/22/2014)	\$113.74
NRG Energy Inc (NRG.N)	O (01/17/2013)	\$10.70
Public Service Enterprise Group Inc (PEG.N)	U (08/20/2012)	\$42.64

Stock Ratings are subject to change. Please see latest research for each company.

* Historical prices are not split adjusted.

INDUSTRY COVERAGE: Regulated Utilities

COMPANY (TICKER)	RATING (AS OF)	PRICE* (02/10/2016)
Stephen C Byrd		
Ameren Corp (AEE.N)	E (05/09/2014)	\$46.20
Atmos Energy Corp. (ATO.N)	O (03/03/2015)	\$70.28
Consolidated Edison Inc (ED.N)	U (10/21/2014)	\$73.39
Duke Energy Corp (DUK.N)	E (08/25/2014)	\$78.12
Edison International (EIX.N)	E (01/12/2015)	\$63.51
Eversource Energy (ES.N)	E (10/07/2013)	\$54.94
ITC Holdings Corp. (ITC.N)	++	\$38.89
Laclede Group Inc (LGN.N)	U (01/12/2016)	\$65.70
ONE Gas Inc (OGS.N)	E (07/10/2015)	\$57.88
Pepco Holdings, Inc. (POM.N)	++	\$26.34
PG&E Corp (PCGN.N)	O (01/26/2016)	\$56.17
Piedmont Natural Gas Company Inc (PNY.N)	E (11/07/2014)	\$59.00
Pinnacle West Capital Corp (PNW.N)	U (01/12/2016)	\$68.75
PPL Corp (PPL.N)	E (07/16/2013)	\$36.27
SCANA Corp (SCG.N)	E (12/09/2013)	\$65.18
Sempra Energy (SRE.N)	O (02/12/2014)	\$97.11
Southern Company (SO.N)	U (08/13/2014)	\$49.21
TECO Energy Inc. (TEN.N)		\$27.13
Xcel Energy Inc (XEL.N)	E (01/17/2013)	\$39.35

Stock Ratings are subject to change. Please see latest research for each company.

* Historical prices are not split adjusted.

INDUSTRY COVERAGE: Clean Tech

COMPANY (TICKER)	RATING (AS OF)	PRICE* (02/10/2016)
Stephen C Byrd		
First Solar Inc (FSLR.O)	E (02/07/2011)	\$64.41
Hannon Armstrong (HASI.N)	E (02/03/2016)	\$17.43
Plug Power Inc. (PLUG.O)	E (04/09/2015)	\$1.62
SolarCity Corp (SCTY.O)	O (08/27/2015)	\$18.63
Sun Edison Inc (SUNEN.N)	++	\$2.36
SunPower Corp (SPWR.O)	O (12/16/2014)	\$21.89
Sunrun Inc (RUN.O)	O (09/08/2015)	\$6.07

Stock Ratings are subject to change. Please see latest research for each company.

* Historical prices are not split adjusted.

To: McCabe, Janet[McCabe.Janet@epa.gov]
Cc: Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]; Miller, Julia[Miller.Julia@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]
From: Schmidt, Lorie
Sent: Tue 2/16/2016 2:00:17 PM
Subject: Re: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Ex. 5 - Attorney Client

Lorie J. Schmidt
 Associate General Counsel for Air and Radiation
 Office of General Counsel
 US Environmental Protection Agency
 (202)564-1681

Sent from my iPhone

On Feb 16, 2016, at 5:34 AM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

Ex. 5 - Deliberative

Sent from my iPhone

On Feb 15, 2016, at 8:43 PM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:

Email 2 of 2.

Andrea Drinkard
 (o) 202.564.1601
 (c) 202.236.7765

Begin forwarded message:

From: "Miller, Julia" <Miller.Julia@epa.gov>
Date: February 15, 2016 at 3:06:53 PM EST
To: "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>

Cc: "Rosenberg, Julie" <Rosenberg.Julie@epa.gov>, "Lemon, Mollie" <Lemon.Mollie@epa.gov>, "Torres, Elineth" <Torres.Elineth@epa.gov>
Subject: Fwd: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Hi all,

These are the top Qs from AAPCA for tomorrow's call with states. I expect to get Qs from NACAA, NASEO and NARUC either this afternoon or tomorrow morning and will pass those along as soon as I receive them.

-Julia

Begin forwarded message:

From: Clint Woods <cwoods@csg.org>
Date: February 15, 2016 at 2:17:39 PM EST
To: "Miller, Julia" <Miller.Julia@epa.gov>
Subject: RE: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Julia,

Thanks so much for the call on Friday – Sorry I missed you. Below are the questions, in priority order, that we are hearing from our members regarding the stay:

1. Does EPA expect that, if the Clean Power Plan is ultimately upheld, the deadlines would be tolled by the amount of time the Supreme Court's stay remains in place? If not, why would the Agency depart from recent practice?
2. Does EPA intend to continue with CPP-related activity like the April 7 biomass workshop, coordination/development of the State Plan Electronic Collection System (SPeCS), or CEIP participation during the stay?

3. Does EPA expect that the stay will change the timelines for any other proposed or final rules, including Paris-related GHG programs?
4. How does the stay affect EPA's FY17 budget request, including \$25 million request for state CPP activities, and FY16 resources/staffing levels? Will staff and resources be redistributed to core air programs during the stay?

Clint Woods

Executive Director

Association of Air Pollution Control Agencies

2760 Research Park Dr.

Lexington, KY 40511

859.244.8040 – office

cwoods@csg.org

<http://www.cleanairact.org>

<image003.jpg>

From: Miller, Julia [<mailto:Miller.Julia@epa.gov>]

Sent: Friday, February 12, 2016 3:50 PM

To: Phil Assmus (passmus@4cleanair.org); Clint Woods; Miles Keogh; Jennifer Murphy; D Terry

Cc: Drinkard, Andrea; Rosenberg, Julie; Mitchell, Ken; Millett, John; Rupp, Mark; Noonan, Jenny; Wortman, Eric; Kornylak, Vera S.; Wood, Anna

Subject: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Dear Colleague:

We are pleased to invite you to participate in a call with Acting Assistant Administrator Janet McCabe to discuss the recent Supreme Court stay of implementation and enforcement of the Clean Power Plan pending judicial review.

Background

On February 9, 2016, the Supreme Court stayed implementation and enforcement of the Clean Power Plan pending judicial review. EPA firmly believes the Clean Power Plan will be upheld when the merits are weighed by the court because the Clean Power Plan rests on strong scientific and legal foundations. During the pendency of the stay, implementation and enforcement of the Clean Power Plan are on hold. EPA will continue to work with states that want to work with us on a voluntary basis.

Date: February 16, 2016

Time: 1:00pm Eastern

Call-in: Ex. 5 - Deliberative conference ID Ex. 5 - Deliberative

Please dial in 10 minutes before your call's start time to ensure your participation.

We look forward to your participation. Information about the Clean Power Plan can be found on our website:

www.epa.gov/cleanpowerplan

To: McCabe, Janet[McCabe.Janet@epa.gov]
Cc: Goffman, Joseph[Goffman.Joseph@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]; Miller, Julia[Miller.Julia@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; Fraser, Scott[Fraser.Scott@epa.gov]; Dennis, Allison[Dennis.Allison@epa.gov]
From: Drinkard, Andrea
Sent: Tue 2/16/2016 1:38:20 PM
Subject: Re: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Just an FYI, **Ex. 6 - Personal Privacy** Vera and Jenny are picking up the Q&A prep, Scott Fraser will be on point to run the leader view for the call. Let us know if there's anything you need.

Andrea Drinkard
 (o) 202.564.1601
 (c) 202.236.7765

On Feb 16, 2016, at 5:34 AM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

Ex. 5 - Deliberative

Sent from my iPhone

On Feb 15, 2016, at 8:43 PM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:

Email 2 of 2.

Andrea Drinkard
 (o) 202.564.1601
 (c) 202.236.7765

Begin forwarded message:

From: "Miller, Julia" <Miller.Julia@epa.gov>
Date: February 15, 2016 at 3:06:53 PM EST
To: "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>
Cc: "Rosenberg, Julie" <Rosenberg.Julie@epa.gov>, "Lemon, Mollie" <Lemon.Mollie@epa.gov>, "Torres, Elineth" <Torres.Elineth@epa.gov>

Subject: Fwd: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Hi all,

These are the top Qs from AAPCA for tomorrow's call with states. I expect to get Qs from NACAA, NASEO and NARUC either this afternoon or tomorrow morning and will pass those along as soon as I receive them.

-Julia

Begin forwarded message:

From: Clint Woods <cwoods@csg.org>
Date: February 15, 2016 at 2:17:39 PM EST
To: "Miller, Julia" <Miller.Julia@epa.gov>
Subject: RE: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Julia,

Thanks so much for the call on Friday – Sorry I missed you. Below are the questions, in priority order, that we are hearing from our members regarding the stay:

1. Does EPA expect that, if the Clean Power Plan is ultimately upheld, the deadlines would be tolled by the amount of time the Supreme Court's stay remains in place? If not, why would the Agency depart from recent practice?
2. Does EPA intend to continue with CPP-related activity like the April 7 biomass workshop, coordination/development of the State Plan Electronic Collection System (SPeCS), or CEIP participation during the stay?
3. Does EPA expect that the stay will change the timelines for any other

proposed or final rules, including Paris-related GHG programs?

4. How does the stay affect EPA's FY17 budget request, including \$25 million request for state CPP activities, and FY16 resources/staffing levels? Will staff and resources be redistributed to core air programs during the stay?

Clint Woods

Executive Director

Association of Air Pollution Control Agencies

2760 Research Park Dr.

Lexington, KY 40511

859.244.8040 – office

cwoods@csg.org

<http://www.cleanairact.org>

<image003.jpg>

From: Miller, Julia [<mailto:Miller.Julia@epa.gov>]

Sent: Friday, February 12, 2016 3:50 PM

To: Phil Assmus (passmus@4cleanair.org); Clint Woods; Miles Keogh; Jennifer Murphy; D Terry

Cc: Drinkard, Andrea; Rosenberg, Julie; Mitchell, Ken; Millett, John; Rupp, Mark; Noonan, Jenny; Wortman, Eric; Kornylak, Vera S.; Wood, Anna

Subject: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Dear Colleague:

We are pleased to invite you to participate in a call with Acting Assistant Administrator Janet McCabe to discuss the recent Supreme Court stay of implementation and enforcement of the Clean Power Plan pending judicial review.

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Date: February 16, 2016

Time: 1:00pm Eastern

Call-in: Ex. 6 - Personal Privacy conference ID Ex. 6 - Personal Privacy

Please dial in 10 minutes before your call's start time to ensure your participation.

We look forward to your participation. Information about the Clean Power Plan can be found on our website:
www.epa.gov/cleanpowerplan

To: Drinkard, Andrea[Drinkard.Andrea@epa.gov]
Cc: McCabe, Janet[McCabe.Janet@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]; Miller, Julia[Miller.Julia@epa.gov]
From: Goffman, Joseph
Sent: Tue 2/16/2016 1:44:54 AM
Subject: Re: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Got 'em. Thanks

- Joseph Goffman
 Sent from my iPhone

On Feb 15, 2016, at 8:43 PM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:

Email 2 of 2.

Andrea Drinkard
 (o) 202.564.1601
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To: McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]; Miller, Julia[Miller.Julia@epa.gov]
From: Drinkard, Andrea
Sent: Tue 2/16/2016 1:43:33 AM
Subject: Fwd: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Email 2 of 2.

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 (o) 202.564.1601
 (c) 202.236.7765

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ASSOCIATION OF AIR POLLUTION CONTROL AGENCIES

2016 SPRING MEETING

April 28-29 | Columbia Marriott | Columbia, South Carolina | www.cleanairact.org

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Cc: Noonan, Jenny[Noonan.Jenny@epa.gov]; Miller, Julia[Miller.Julia@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]
From: Drinkard, Andrea
Sent: Tue 2/16/2016 1:42:31 AM
Subject: Fwd: Questions for Tomorrow

Hi Janet and Joe,

Here is the first of two emails with the top qs from the states. I wanted to get these to you tonight, but we'll pull answers in the am.

Ex. 5 - Deliberative

Andrea Drinkard
 (o) 202.564.1601
 (c) 202.236.7765

Begin forwarded message:

From: "Miller, Julia" <Miller.Julia@epa.gov>
Date: February 15, 2016 at 4:29:50 PM EST
To: "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>
Cc: "Rosenberg, Julie" <Rosenberg.Julie@epa.gov>, "Lemon, Mollie" <Lemon.Mollie@epa.gov>, "Torres, Elineth" <Torres.Elineth@epa.gov>
Subject: Fwd: Questions for Tomorrow

Here are the Qs from NACAA.

Begin forwarded message:

From: Phillip Assmus <passmus@4cleanair.org>
Date: February 15, 2016 at 4:16:17 PM EST
To: "Miller, Julia" <Miller.Julia@epa.gov>
Subject: Questions for Tomorrow

Julia,

I've gotten some state questions in anticipation of tomorrow's CPP call and have collected them below for your review. None should be too surprising. I hope they are a useful guide to help your team to prepare.

Phil

1. Are states under any obligation to make initial plan submittals, state plan submittals or any other other filings before the stay is lifted?
2. How will EPA revise the applicable submittal deadlines once the stay is lifted? To help illustrate, can EPA review the process and standards it applied to adjust the implementation deadlines for CSAPR? Are there other helpful examples states should review?
3. What CPP rulemakings and guidance remain outstanding (e.g., the model federal trading rules, the CEIP future notice and comment opportunity and EM&V guidance)? For each, how does the stay affect their development, public opportunity for comment and finalization timing?
4. To what extent can EPA continue to work with the states that elect to move forward on CPP implementation? What does EPA believe the limits of its authority are?
5. How should states contact EPA to seek assistance with CPP implementation? Does EPA need a written request?
6. Does EPA have authority to accept or review voluntary state submissions during the stay? If so, what kind of voluntary submissions would be appropriate?

7. How will voluntary state implementation actions taken during the stay be viewed for achieving compliance? For example, if the legal challenge is not resolved until 2018, and utilities take measures to comply between 2016 and 2018, will those measures still count toward compliance?

8. Does the recent Supreme Court vacancy call the stay into question or present EPA with an opportunity to challenge it?

To: Administrator
Cc: Rupp, Mark[Rupp.Mark@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]
From: Garvin, Shawn
Sent: Mon 2/15/2016 8:05:36 PM
Subject: Re: Delaware position on CPP and Stay

FYI - This is what I received from MD:

"We'll keep working on a plan that works for Maryland. That means continued stakeholder meetings to inform our work on the state's greenhouse gas reduction plan, RGGI, and the pending Clean Power Plan."

Ex. 5 - Deliberative

Thanks - Shawn

Sent from my iPhone

On Feb 15, 2016, at 2:37 PM,
 wrote:

Administrator

Good for them!

Sent from my iPhone

On Feb 15, 2016, at 1:07 PM, Rupp, Mark <Rupp.Mark@epa.gov> wrote:

----- Forwarded message -----

From: "Cherry, Philip J. (DNREC)" <Philip.Cherry@state.de.us>
Date: Mon, Feb 15, 2016 at 9:22 AM -0800
Subject: Delaware position on CPP and Stay
To: "Rupp, Mark" <Rupp.Mark@epa.gov>
Cc: "Gabriel S Pacyniak (Pacyniak@law.georgetown.edu)" <Pacyniak@law.georgetown.edu>, "Mirzakhali, Ali (DNREC)" <Ali.Mirzakhali@state.de.us>

Mark –

Good Afternoon. The State of Delaware, Department of Natural Resources and Environmental Control (DNREC) will be issuing the attached press release today affirming our intention to move forward with preparing a plan to comply with the Clean Power Plan.

We wanted to be sure EPA knew of our intentions, and our support for the CPP overall.

Please let me know if you have questions. Thank you.

Philip Cherry

Director, Division of Energy and Climate

Department of Natural Resources and Environmental Control

State of Delaware

100 W. Water St.

Suite 5A

Dover, DE 19904

302.735.3480

Ex. 6 - Personal Privacy

Philip.cherry@state.de.us

<02-15-16 Delaware_Clean_Power Plan_PR (2).docx>

To: McCabe, Janet[McCabe.Janet@epa.gov]
From: McGrath, Shaun
Sent: Mon 2/15/2016 7:09:14 PM
Subject: Re: from weekend report

Not yet. We really just discussed process, timing and options for engaging. It was a good meeting.

Ex. 5 - Deliberative

Ex. 5 - Deliberative

Sent from my iPhone

On Feb 15, 2016, at 11:54 AM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

Thanks, Shaun—anything from the regional haze discussion that we should talk about?

From: McGrath, Shaun
Sent: Monday, February 15, 2016 12:55 PM
To: McCabe, Janet <McCabe.Janet@epa.gov>
Subject: from weekend report

Weekend Report from R8

Not Responsive

Not Responsive

Not Responsive

Montana and CPP -- I met last week with Tim Baker, who is the point person in Gov. Bullock's office on CPP. We had planned to discuss Regional Haze and CPP, however, as the meeting happened the day after the Supreme Court stay, we focused instead on Regional Haze. Regarding CPP, Tim said he had not yet received direction from the Governor, but that he thought it would be very difficult for MT to continue work on the CPP in light of the stay.

Sent from my iPad

To: [redacted] Administrator Goffman,
Joseph[Goffman.Joseph@epa.gov]; Garvin, Shawn[garvin.shawn@epa.gov]; Fritz,
Matthew[Fritz.Matthew@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; McCabe,
Janet[McCabe.Janet@epa.gov]
From: Rupp, Mark
Sent: Mon 2/15/2016 6:07:23 PM
Subject: Fwd: Delaware position on CPP and Stay
02-15-16 Delaware Clean Power Plan PR (2).docx

----- Forwarded message -----

From: "Cherry, Philip J. (DNREC)" <Philip.Cherry@state.de.us>
Date: Mon, Feb 15, 2016 at 9:22 AM -0800
Subject: Delaware position on CPP and Stay
To: "Rupp, Mark" <Rupp.Mark@epa.gov>
Cc: "Gabriel S Pacyniak (Pacyniak@law.georgetown.edu)" <Pacyniak@law.georgetown.edu>, "Mirzakhilili, Ali (DNREC)" <Ali.Mirzakhilili@state.de.us>

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Ex. 6 - Personal Privacy

Philip.cherry@state.de.us

NEWS FROM THE DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Contact: Michael Globetti, DNREC Public Affairs, 302-739-9902

Delaware to continue climate change fight, pushing ahead with Clean Power Plan objectives *Despite CPP setback from Supreme Court stay, DNREC to host listening session and public workshop March 1 on path forward*

DOVER (Feb. 15, 2016) – The State of Delaware will continue pushing forward to meet the objectives of the Clean Power Plan, undeterred by a Supreme Court stay of the EPA’s proposed rule Feb. 9. DNREC has scheduled a public listening session for March 1 in Dover to discuss the state’s strategy toward meeting the objectives of the Clean Power Plan, and to gather input from citizens on this essential part of the fight against climate change and its impacts on Delawareans.

The EPA’s Clean Power Plan, which aims to reduce harmful greenhouse gas emissions from power plants while encouraging clean and renewable energy across the country, was temporarily suspended on Tuesday in the face of legal opposition. Delaware Governor Jack Markell was “disappointed in the Supreme Court’s action, but optimistic that the Clean Power Plan will be upheld when the courts review the merits of the case” and followed by declaring that, “We remain determined to move forward in responding to the issue of climate change.”

“As a Regional Greenhouse Gas Initiative (RGGI) state, Delaware has led the country in working to curtail greenhouse gas emissions from the power sector,” Gov. Markell said, “and we will continue to do so regardless of the Supreme Court’s decision to stay the Clean Power Plan rule. As a coastal state, we are acutely aware of the serious threats of climate change and sea level rise, and the Clean Power Plan represents a sensible and flexible approach for states to make the changes required to protect our economy and quality of life.”

Without the significant reduction of heat-trapping greenhouse gas pollutants, Delaware faces projected increased days of extreme temperatures, stronger storms, rising sea levels, and costly damage to agriculture, industry, and public health and resources.

“We understand that the legal issues of the Clean Power Plan need to work themselves out, but we must continue the strong actions we have taken through our participation in RGGI, the Delaware Climate Change Impact Assessment and Executive Order 41,

which has directed agencies to identify steps we can take to further reduce emissions and adapt,” said DNREC Secretary David Small. “Along with many other states, we will continue to develop our plans to comply with the Clean Power Plan – and gathering feedback from stakeholders in the energy sector, conservation organizations and the public is an important part of that process. ”

Sec. Small noted that as of 2014, RGGI states including Delaware have seen carbon pollution from the power sector decrease by over 40 percent, and have benefitted from lower energy costs and positive job creation.

DNREC’s March 1 workshop and informal listening session will provide an opportunity for public input on methods for reducing carbon pollution from power plants, and how Delaware can achieve the goals of the Clean Power Plan in ways that are both environmentally and economically sustainable, while also maintaining the integrity of the state’s and region’s electrical infrastructure. The session will be held from 6 - 8 p.m. in the DNREC Auditorium, 89 Kings Highway, Dover, DE 19901. More information can be found on the Division of Air Quality’s website (<http://www.dnrec.delaware.gov/Air/Pages/CleanPowerPlan.aspx>).

For more information on the EPA’s Clean Power Plan, visit <http://www.epa.gov/cleanpowerplan>.

For more information on climate change impacts and action in Delaware, visit <http://www.dnrec.delaware.gov/energy/Pages/The-Delaware-Climate-Impact-Assessment.aspx>.

Vol. 46, No. 41

To: McCabe, Janet[McCabe.Janet@epa.gov]
From: McGrath, Shaun
Sent: Mon 2/15/2016 5:54:35 PM
Subject: from weekend report

Weekend Report from R8

Not Responsive

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Not Responsive

Montana and CPP -- I met last week with Tim Baker, who is the point person in Gov. Bullock's office on CPP. We had planned to discuss Regional Haze and CPP, however, as the meeting happened the day after the Supreme Court stay, we focused instead on Regional Haze.

Regarding CPP, Tim said he had not yet received direction from the Governor, but that he thought it would be very difficult for MT to continue work on the CPP in light of the stay.

Sent from my iPad

To: Britney Hudson[bhudson@bauer.uh.edu]
From: Britney Hudson
Sent: Mon 2/15/2016 4:57:08 PM
Subject: Message from Dean Ramchand on the Clean Power Plan Workshop & Symposium
CPP or What Next Agenda .pdf

Greetings,

Several of you have asked whether we are going ahead with our Workshop/ Symposium following the Supreme Court's decision to stay the implementation of the CPP rule. We believe that the CPP rule is an important development that is worth a careful look. The program is fact based about the CPP process itself and not about defeating or defending the rule making itself. In light of the stay, we have expanded the scope of the planned discussions to cover not only the CPP but also "what next?" if the CPP does not survive the legal challenges.

The discussions are designed to deepen our understanding of the pros and cons of the CPP and inform our participation in future GHG reduction debates. We hope you will all agree. You may be interested in a blog by Victor Flatt, a member of our organizing committee, on his early reaction to the court decision at <http://fuelfix.com/blog/2016/02/09/supreme-court-stays-clean-power-plan/>.

Sincerely and with warm regards,

Latha Ramchand

Latha Ramchand

Dean and Professor, Finance

C. T. Bauer College of Business

University of Houston



By Invitation Only

Clean Power Plan Workshop & Symposium

March 9, 2016 • 8 a.m. - 3 p.m.

Insperity Building, Room 328

Join a group of high-level executives for a candid discussion on the issues arising from the EPA's proposed Clean Power Plan and its regional impact.

Please RSVP by Thursday, March 3 at <https://www.bauer.uh.edu/gemicpp/>

Please contact Britney Hudson at bhudson@bauer.uh.edu if you have any questions.



Clean Power Plan or What Next? Workshop & Symposium Agenda

- 7:30 – 8:00 am Registration and Continental Breakfast
- 8:00 - 8:20 am Welcome and Opening Remarks by Dean Ramchand
- 8:20 - 9:20 am Setting the Context: Panel
 - Moderator Introduction (CPP, Another National Plan or Fragmented Approach)
 - EPA: CPP Intent
 - Implications for FERC
 - Q & A
- 9:20 – 9:30 am Coffee Break
- 9:30 – 10:30 am Economic Implications for Texas and other Regions: Panel
 - ERCOT: Texas Point of View
 - Implications for Power Generators
 - The Role of Natural Gas
- 10:30 am – 1:30 pm Workshop: Break Out Discussions with Working Lunch
 - Implications for Power Generators and their Fuel Suppliers
 - Implications for the Cost and Reliability of Electricity Supply
 - Regional Economic and Financial Consequences
- 1:30 – 2:30 pm Summaries of key issues from break-out groups
- 2:30 – 3:00 pm Closing Comments

To: McCabe, Janet[McCabe.Janet@epa.gov]
From: Dennis, Allison
Sent: Mon 2/15/2016 4:22:37 PM
Subject: Fwd: More local officials attending
Officials Attending the Clean Power Plan Forum.docx
ATT00001.htm

Fyi and good luck today ! Hope it isn't snowing where you are.

Sent from my iPhone

Begin forwarded message:

From: "David Parsons" <dashparsons@bluemarble.net>
To: "Dennis, Allison" <Dennis.Allison@epa.gov>
Subject: More local officials attending

Allison,

I've had some more people say they are attending and added them to the list I sent earlier. Here is the newly revised list of local officials who have said they are attending.

Dave

Officials Attending the Clean Power Plan Forum

Monroe County Government Elected Officials

Ryan Cobine	County Council
Lee Jones	County Council
Shelli Yoder	County Council
Eric Spoonmore	County Council



Lee is far left by US flag, standing

Ryan is standing next to Lee

Shelli is sitting on right

Eric is standing far right

Iris (Ee-riss) Kiesling County Commissioner. Iris remembers Janet from the start of the KIDS program. Iris was probably a Bloomington City Councilperson at that time.

Julie Thomas County Commissioner



Iris on L

Julie on R

(sorry I couldn't find a bigger picture)

City of Bloomington Elected Officials

Andy Ruff	City Council
Susan Sandberg	City Council
Allison Chopra	City Council



Susan Sandberg is in front w tan sweater

Andy Ruff is sitting next to her, dark shirt

Allison Chopra is standing directly behind Susan

This picture was taken in the City Council Chambers where we are holding the forum. The counter/dias where the members are sitting is raised and extends across the front of the room.

Mayor John Hamilton is a very tentative maybe. He is giving his first State of the City address the next day and doesn't know if his schedule will allow him to attend. He will do his best to be there briefly.

To: McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov];
'Joseph Goffman'; **Ex. 6 - Personal Privacy**
From: Janet McCabe
Sent: Mon 2/15/2016 4:00:51 PM
Subject: OAR Outline for 2016
[OAR Outline for 2016.docx](#)

Joe—here is the outline I mentioned. I'm sending it to your personal and EPA addresses because the EPA email system is down at the moment.

See you tomorrow.

To: JanetMcCabe **Ex. 6 - Personal Privacy**; McCabe, Janet[McCabe.Janet@epa.gov]
From: Jodi Perras
Sent: Sun 2/14/2016 5:57:32 PM
Subject: Audio of WFIU panel discussion of Clean Power Plan

Hi Janet,

Here's the link I told you about:

<http://indianapublicmedia.org/noonedition/indiana-challenges-epa-carbon-emission-rules/>

Both Mark Maassel and Ken Richards were on this show with me. You can see a breakdown of the conversation and time cues in the audio for different issues discussed.

Have fun tomorrow!

--

Jodi Perras
Senior Campaign Representative, Indiana Beyond Coal
Sierra Club
1100 W. 42nd Street, Suite 140
Indianapolis, IN 46208
317-296-8395 (o)

Ex. 6 - Personal Privacy
jodi.perras@sierraclub.org

Greenfaith Fellow, 2014

To: McCabe, Janet[McCabe.Janet@epa.gov]
From: Dennis, Allison
Sent: Sun 2/14/2016 2:02:47 AM
Subject: Fwd: Questions and timetable for Clean power Plan forum Feb 15
[Final Question List for CPP Forum.docx](#)
[ATT00001.htm](#)
[Welcome Bios.docx](#)
[ATT00002.htm](#)

Hi Janet- just a summary for Monday's event below. Also, here are some additional details from Dave, the event organizer:

VIPs: I sent a request to all County Council, County Commissioners, City Council members and the Mayor for a confirmation of attendance. I am attaching a list of those who said they would be attending. Unfortunately John Hamilton, Bloomington's mayor is 'iffy'. He is delivering his first 'State of the City' address the following evening. There may be other notable people attending of course, I'll try to introduce Janet to the people I know.

Press – I am still less than clear about who will be there. It will be recorded or broadcast then archived on CATS, our cable access television service that broadcasts local government meetings. Their cable service area is Bloomington, but the public does have internet access to their recordings.

The Herald Times will have someone there. The H-T is the paper that our moderator edits. I have talked to reporters at WFHB, a local community radio station. They were interested in the Supreme Court ruling mostly. They also have announced the event on one program and will announce it on the day of the event. This station broadcasts to Bloomington and surrounding towns and has an internet feed.

WFIU is our local public radio station. The event is on their community calendar and they have announced it on air. I have left messages about more coverage but don't have a commitment.

WTIU is local public television. Same as above except I don't know if they have announced it at any time.

I will send information to more stations. I think this may be all we can expect, though.

Audience Qanda -

I will talk to Janet about adding audience questions – whether we should take questions and screen them at the event. I am fine with not doing that although I do prefer some questions from the audience, screened at the event. One exception – I have been talking with a woman in Bloomington who is working with High School students who are interested in climate change. If they can get some questions to me before the event I would dearly like to have one as an audience question.

Introduction

Intros- At this time we are expecting our moderator, Bob Zaltsberg to introduce the panelists. I will let you know if we can get the mayor or some other local government person.

Sent from my iPhone

Begin forwarded message:

From: David Parsons <[Ex. 6 - Personal Privacy]>
Date: February 13, 2016 at 5:39:12 PM EST
To: <jkharbanda@hecweb.org>, Mark Maassel <mmaassel@indianaenergy.org>, <kenricha@indiana.edu>, <rzaltsberg@heraldt.com>, "Dennis, Allison" <Dennis.Allison@epa.gov>
Cc: Martin Oneill <[Ex. 6 - Personal Privacy]>, Monroe County Commissioners' Office <commissionersoffice@co.monroe.in.us>, <government@heraldt.com>, "Alley Muir at MCSWC" <[Ex. 6 - Personal Privacy]>, Andrew Guenther <ajguenth@indiana.edu>, Ashley Cranor <acranor@co.monroe.in.us>, Bob Austin <[Ex. 6 - Personal Privacy]>, "Brethova, Kristin Rose" <brethova@indiana.edu>, Clark Sorensen <[Ex. 6 - Personal Privacy]>, Dave Harstad <[Ex. 6 - Personal Privacy]>, "Eric Spoonmore" <espoonmore@co.monroe.in.us>, Jacqueline Bauer <bauerj@bloomington.in.gov>, Julie Thomas <[Ex. 6 - Personal Privacy]>, Megan Darnley <mdarnley@umail.iu.edu>, "Miller, Martha - NRCS-CD, Bloomington, IN" <[Ex. 6 - Personal Privacy]>, Peter Iversen <[Ex. 6 - Personal Privacy]>
Subject: Questions and timetable for Clean power Plan forum Feb 15

Clean Power Plan Forum Participants,

This is our suggested timeline and question list for the CPP Forum. We have advertised an ending time of 7:30 so we have a few minutes padding with the planned 7:15 end time.

Timeline--

6 pm- Welcome and Introductions (5 min)

6:05-6:20 pm- Janet: High level overview of CPP with a special emphasis on what it means for Indiana (15 min)

6:20-6:50 pm Moderated discussion with all panelists (30 min) **Question list attached.**

6:50-7:10 pm Audience Q&A w/prescreened questions (20 min) **Pre-screened list attached.**

7:10 Wrap Up and event concludes (7:15 pm)

Bob, can you do the Welcome and Introductions?

Jessie, Ken, Mark, and Allison (for Janet) – I copied and tweaked bio information from your respective web pages (HEC, SPEA, IEA, and EPA) and have attached a document with a draft of Bio information. The texts are minimally tweaked. **Please review.**

I am adding the text of the Final Question List here in addition to sending the document as an attachment.

Bob, this is the final list.

Final Question List for CPP Forum

Panel questions:

What effect does the Supreme Court's decision have on implementation of the CPP?

How will states likely incorporate energy efficiency into their SIPs?

Although it may be too early to know the true effect of the CPP on the cost of electricity to the customers, what are the best estimates?

What compliance strategies in a state-written plan could minimize electricity costs to

customers?

How do you anticipate the design of the CPP impacting Indiana's clean energy job sector?

How might Indiana's CPP plan be designed to reduce electricity bills?

From a cost and reliability perspective, is it realistic to expect utility-scale renewables to contribute significantly to Indiana's plan?

Given that Governor Pence has not yet decided whether to submit a plan, for those businesses and communities in Indiana who want their state to submit plan, what should they be doing?

Audience questions:

Carbon has been around forever. Why does it need to be regulated now? Is something different?

Although the main focus of the CPP is reducing carbon emissions into the atmosphere, are there other public health benefits to burning less coal?

I understand the State of Indiana can produce a plan for compliance or the EPA can present a compliance plan for Indiana. Do you think there would be a difference between the plans for Indiana? Could one be better than the other?

What steps have Indiana's utilities taken in the past 5 years or so to reduce carbon emissions?

What is the predicted net impact of the CPP on economic growth and employment in Indiana? What types of existing jobs may be negatively or positively affected? Are there new jobs that are predicted to be created?

Thanks again for your willingness to participate in the forum.

If you think of anything that is needed that I have missed feel free to tell me.

The offer for dinner after the forum, my treat, still stands.

Dave Parsons

Final Question List for CPP Forum

Panel questions:

What effect does the Supreme Court's decision have on implementation of the CPP?

How will states likely incorporate energy efficiency into their SIPs?

Although it may be too early to know the true effect of the CPP on the cost of electricity to the customers, what are the best estimates?

What compliance strategies in a state-written plan could minimize electricity costs to customers?

How do you anticipate the design of the CPP impacting Indiana's clean energy job sector?

How might Indiana's CPP plan be designed to reduce electricity bills?

From a cost and reliability perspective, is it realistic to expect utility-scale renewables to contribute significantly to Indiana's plan?

Given that Governor Pence has not yet decided whether to submit a plan, for those businesses and communities in Indiana who want their state to submit plan, what should they be doing?

Audience questions:

Carbon has been around forever. Why does it need to be regulated now? Is something different?

Although the main focus of the CPP is reducing carbon emissions into the atmosphere, are there other public health benefits to burning less coal?

I understand the State of Indiana can produce a plan for compliance or the EPA can present a compliance plan for Indiana. Do you think there would be a difference between the plans for Indiana? Could one be better than the other?

What steps have Indiana's utilities taken in the past 5 years or so to reduce carbon emissions?

What is the predicted net impact of the CPP on economic growth and employment in Indiana?

What types of existing jobs may be negatively or positively affected? Are there new jobs that are predicted to be created?

To: McCabe, Janet[McCabe.Janet@epa.gov]
From: Meiburg, Stan
Sent: Sat 2/13/2016 11:41:26 PM
Subject: Re: OAR Hot List for week of February 15--sorry for the length

Not Responsive

Stan

Sent from my iPad

On Feb 13, 2016, at 1:55 PM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

OAR Hot List
 Week of February 15, 2016

Clean Power Plan: The SCOTUS CPP stay decision was the chief topic of discussion this week, and while we would have preferred to cover other topics during your keynote (which all agree provided just the lift in spirits everyone needed), the 3N conference did give us the chance to talk to and hear directly from many of the state air and energy folks. Quick work from across OAR, OGC and the public affairs and outreach teams armed us with plenty of good talking points, q&a, and slides for HQ and regions to use this week, and that we will build on going forward. In addition to 3N, I had a call with the American Sustainable Business Council and spoke at the Manufacturers of Emissions Controls Association's 40th Anniversary event in DC, which went well. Debbie went to Phoenix to speak at the Executive Women in Energy conference on Thursday. On Thursday, I joined Mark Rupp and Joe to attend a productive meeting with Jared Synder, Katie Dykes, and Gabe Pacyniak on CPP next steps. Joe and I also spoke with Doug Scott. Mustafa and Rosemary helped coordinate a good and frank call with Vien Truong, the Executive Director of Green for All, and Van Jones on Friday about the CEIP and other Clean Power Plan issues.

Ex. 5 - Deliberative

Ex. 5 - Deliberative

Finally, William and Jared held a long but uneventful consultation on the proposed Federal Plan with the Gila River Indian Community. I also talked with Pat Vincent-Collawn. The statement from EEI was measured, and emphasized that utilities are moving forward regardless of the stay.

Next week....on Monday evening, I'm participating in a CPP Public Forum in Bloomington, Indiana. Based on input and questions that Joe and I heard at 3N, we pulled together and

sent out notice Friday for a special call with states for Tuesday – to answer the questions that we can as far as we can, but also to gather questions that we'll need to answer soon enough. Coming up, Joe has meetings planned with NRDC, MISO, Josh Epel, Nobel Energy, and CEG.

Not Responsive

Not Responsive

Not Responsive

Near term heads up: I'll be traveling to China the week of Feb 29.

Ex. 5 - Deliberative

Ex. 5 - Deliberative

Not Responsive

To: DeMocker, Jim[DeMocker.Jim@epa.gov]
Cc: McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Shaw, Betsy[Shaw.Betsy@epa.gov]; Niebling, William[Niebling.William@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]
From: Stewart, Lori
Sent: Sat 2/13/2016 11:09:46 PM
Subject: Re: News flash re scotus

Yes watching CNN now. Just an incredible week.

Sent from my iPhone

On Feb 13, 2016, at 5:48 PM, DeMocker, Jim <DeMocker.Jim@epa.gov> wrote:

Justice Scalia apparently passed away this morning.

Sent from my Windows Phone

To: McCabe, Janet[McCabe.Janet@epa.gov]
From: Goffman, Joseph
Sent: Sat 2/13/2016 10:54:39 PM
Subject: Re: Justice scalia died

May his soul find peace.

- Joseph Goffman
Sent from my iPhone

On Feb 13, 2016, at 5:37 PM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

Sent from my iPhone

Begin forwarded message:

From: "Giles-AA, Cynthia" <Giles-AA.Cynthia@epa.gov>
Date: February 13, 2016 at 5:24:32 PM EST
To: "Administrator" <McCabe.Janet@epa.gov>, "McCabe, Janet" <McCabe.Janet@epa.gov>, "Garbow, Avi" <Garbow.Avi@epa.gov>
Subject: Justice scalia died

Sent from my Windows Phone

To: Garbow, Avi[Garbow.Avi@epa.gov]; Shenkman, Ethan[Shenkman.Ethan@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]
From: Schmidt, Lorie
Sent: Sat 2/13/2016 10:33:06 PM
Subject: Fwd: FYI - Apparently Scalia just died today (eom)

Lorie J. Schmidt
Associate General Counsel for Air and Radiation
Office of General Counsel
US Environmental Protection Agency
(202)564-1681

Sent from my iPhone

Begin forwarded message:

From: "Marks, Matthew" <Marks.Matthew@epa.gov>
Date: February 13, 2016 at 5:22:43 PM EST
To: "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>, "Zenick, Elliott" <Zenick.Elliott@epa.gov>, "Hoffman, Howard" <hoffman.howard@epa.gov>, "Jordan, Scott" <Jordan.Scott@epa.gov>, "Silverman, Steven" <silverman.steven@epa.gov>, "Vijayan, Abi" <Vijayan.Abi@epa.gov>, "Pilchen, Zach" <Pilchen.Zach@epa.gov>, "Schramm, Daniel" <Schramm.Daniel@epa.gov>, "Roder, Aileen" <Roder.Aileen@epa.gov>
Subject: FYI - Apparently Scalia just died today (eom)

<http://www.bbc.com/news/world-us-canada-35571868>

US Supreme Court Justice Scalia dies - BBC News
www.bbc.com

To: [redacted] Administrator McCabe,
Janet[McCabe.Janet@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]
From: Giles-AA, Cynthia
Sent: Sat 2/13/2016 10:24:32 PM
Subject: Justice scalia died

Sent from my Windows Phone

To: Stewart, Lori[Stewart.Lori@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; Shaw, Betsy[Shaw.Betsy@epa.gov]
Cc: Millett, John[Millett.John@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Dennis, Allison[Dennis.Allison@epa.gov]; Cyran, Carissa[Cyran.Carissa@epa.gov]
From: Niebling, William
Sent: Sat 2/13/2016 4:26:17 PM
Subject: RE: Draft Hot List

Sorry to be a little late with this. You could also mention that I, along with Jared, held a long but uneventful consultation on the proposed Federal Plan with the Gila River Indian Community.

From: Stewart, Lori
Sent: Friday, February 12, 2016 5:44 PM
To: McCabe, Janet <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>; Niebling, William <Niebling.William@epa.gov>; Shaw, Betsy <Shaw.Betsy@epa.gov>
Cc: Millett, John <Millett.John@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Dennis, Allison <Dennis.Allison@epa.gov>; Cyran, Carissa <Cyran.Carissa@epa.gov>
Subject: RE: Draft Hot List

Resending without the Indian Country NSR extension, which just got signed. Thanks.

OAR Hot List

Week of February 15, 2016

Clean Power Plan: The SCOTUS CPP stay decision was the chief topic of discussion this week, and while we would have preferred to cover other topics during your keynote (which all agree provided just the lift in spirits everyone needed), the 3N conference did give us the chance to talk to and hear directly from many of the state air and energy folks. Quick work from across OAR, OGC and the public affairs and outreach teams armed us with plenty of good talking points, q&a, and slides to use this week, and that we will build on going forward. In addition to 3N, I had a call with the American Sustainable Business Council and spoke at the Manufacturers of Emissions Controls Association's 40th Anniversary event in DC, which went well. Debbie went to Phoenix to speak at the Executive Women in Energy conference on Thursday. On Thursday, I

joined Mark Rupp and Joe to attend a productive meeting with Jared Synder, Katie Dykes, and Gabe Pacyniak on CPP next steps and had a call with Vien Truong, the Executive Director of Green for All, on Friday about the CEIP and other Clean Power Plan issues.

Ex. 5 - Deliberative

Ex. 5 - Deliberative

Next week...on Monday evening, I'm looking forward to participating in a CPP Public Forum at Bloomington, Indiana. Based on input and questions that Joe and I heard at 3N, we're planning a special call with states for Tuesday – to answer the questions that we can as far as we can, but also to gather questions that we'll need to answer soon enough. Coming up, Joe has meetings planned with NRDC, MISO, Josh Epel, Nobel Energy, and CEG.

Not Responsive

Not Responsive

Not Responsive

To: McCabe, Janet[McCabe.Janet@epa.gov]
Cc: Garbow, Avi[Garbow.Avi@epa.gov];
From: Goffman, Joseph
Sent: Sat 2/13/2016 5:22:12 AM
Subject: Re: Brookings Blog on SCOTUS CPP Stay

Administrator

Ex. 5 - Deliberative

- Joseph Goffman
 Sent from my iPhone

On Feb 12, 2016, at 11:48 PM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

Ex. 5 - Deliberative

Sent from my iPhone

On Feb 12, 2016, at 9:41 PM, Goffman, Joseph <Goffman.Joseph@epa.gov> wrote:

Thanks

- Joseph Goffman
 Sent from my iPhone

On Feb 12, 2016, at 9:41 PM, Garbow, Avi <Garbow.Avi@epa.gov> wrote:

Ex. 5 - Deliberative

Avi

Avi S. Garbow
 General Counsel
 U.S. Environmental Protection Agency

Sent from my iPhone

Begin forwarded message:

From: Robert Sussman <**Ex. 6 - Personal Privacy**>
Date: February 12, 2016 at 5:27:17 PM EST
To: Undisclosed recipients;;
Subject: Brookings Blog on SCOTUS CPP Stay

Here's a link to my latest blog, on the SCOTUS stay of the Clean Power Plan.

<http://www.brookings.edu/blogs/planetpolicy/posts/2016/02/12-supreme-court-clean-power-plan-missteps-sussman>

Feedback welcome!

Best --- BOB

Robert M. Sussman
3133 Connecticut Avenue, NW #2405
Washington DC 20008
(202)-758-2227 (H)

Ex. 6 - Personal Privacy

To: Garbow, Avi[Garbow.Avi@epa.gov]
Cc: [Redacted] Administrator, McCabe, Janet[McCabe.Janet@epa.gov]
From: Goffman, Joseph
Sent: Sat 2/13/2016 2:41:47 AM
Subject: Re: Brookings Blog on SCOTUS CPP Stay

Thanks

- Joseph Goffman
 Sent from my iPhone

On Feb 12, 2016, at 9:41 PM, Garbow, Avi <Garbow.Avi@epa.gov> wrote:

Ex. 5 - Deliberative

Avi

Avi S. Garbow
 General Counsel
 U.S. Environmental Protection Agency

Sent from my iPhone

Begin forwarded message:

From: Robert Sussman <[Redacted] Ex. 6 - Personal Privacy>
Date: February 12, 2016 at 5:27:17 PM EST
To: Undisclosed recipients;
Subject: Brookings Blog on SCOTUS CPP Stay

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<http://www.brookings.edu/blogs/planetpolicy/posts/2016/02/12-supreme-court-clean-power-plan-missteps-sussman>

Feedback welcome!

Best --- BOB

Robert M. Sussman
3133 Connecticut Avenue, NW #2405
Washington DC 20008

(202)-758-2227 (H)

Ex. 6 - Personal Privacy

To: [redacted] **Administrator** McCabe,
 Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]
From: Garbow, Avi
Sent: Sat 2/13/2016 2:41:08 AM
Subject: Fwd: Brookings Blog on SCOTUS CPP Stay

Ex. 5 - Deliberative

Avi

Avi S. Garbow
 General Counsel
 U.S. Environmental Protection Agency

Sent from my iPhone

Begin forwarded message:

From: Robert Sussman { **Ex. 6 - Personal Privacy** }
Date: February 12, 2016 at 5:27:17 PM EST
To: Undisclosed recipients;;
Subject: Brookings Blog on SCOTUS CPP Stay

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Feedback welcome!

Best --- BOB

Robert M. Sussman
3133 Connecticut Avenue, NW #2405
Washington DC 20008
(202)-758-2227 (H)

Ex. 6 - Personal Privacy

From: Robert Sussman
Sent: Fri 2/12/2016 10:27:17 PM
Subject: Brookings Blog on SCOTUS CPP Stay

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<http://www.brookings.edu/blogs/planetpolicy/posts/2016/02/12-supreme-court-clean-power-plan-missteps-sussman>

Feedback welcome!

Best --- BOB

Robert M. Sussman
3133 Connecticut Avenue, NW #2405
Washington DC 20008
(202)-758-2227 (H)

Ex. 6 - Personal Privacy

To: McCabe, Janet[McCabe.Janet@epa.gov]
Cc: Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]
From: Drinkard, Andrea
Sent: Sat 2/13/2016 1:45:03 AM
Subject: Re: Communication with States

Both Elliott and Lorie should be on the invite for 1pm Tuesday. If you're not, please let me know. I didn't get creative with your talking points. I took what we had for the day 1 talking points and I added a few lines. I'll send what I sent home with you to Lorie and Elliott now.

That being said, if you would like me to be more creative with the TPs, let me know.

Andrea Drinkard
 (o) 202.564.1601
 (c) 202.236.7765

On Feb 12, 2016, at 7:01 PM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

We should be sure OGC 1) reviews any talking points and 2) is in the room with me during the call.

Thanks again for the super quick work getting this set up.

Sent from my iPhone

Begin forwarded message:

From: "Rupp, Mark" <Rupp.Mark@epa.gov>
Date: February 12, 2016 at 11:08:59 AM EST
To: "Atkinson, Emily" <Atkinson.Emily@epa.gov>, "Garbow, Avi" <Garbow.Avi@epa.gov>, "Tsirigotis, Peter" <Tsirigotis.Peter@epa.gov>, "Koerber, Mike" <Koerber.Mike@epa.gov>, "Culligan, Kevin" <Culligan.Kevin@epa.gov>, "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>, "Stewart, Lori" <Stewart.Lori@epa.gov>, "Dunham, Sarah" <Dunham.Sarah@epa.gov>, "Distefano, Nichole" <DiStefano.Nichole@epa.gov>, "Page, Steve" <Page.Steve@epa.gov>, "Purchia, Liz" <Purchia.Liz@epa.gov>, "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>, "Wood, Anna" <Wood.Anna@epa.gov>, "Jordan, Deborah" <Jordan.Deborah@epa.gov>, "Zenick, Elliott" <Zenick.Elliott@epa.gov>, "Goffman, Joseph" <Goffman.Joseph@epa.gov>, "Harvey, Reid" <Harvey.Reid@epa.gov>, "Millett, John" <Millett.John@epa.gov>, "Kornylak, Vera S." <Kornylak.Vera@epa.gov>, "McCabe, Janet" <McCabe.Janet@epa.gov>
Subject: RE: Communication with States

And at the risk of getting too large, would recommend inviting governors' reps

On Fri, Feb 12, 2016 at 8:05 AM -0800, "Rupp, Mark" <Rupp.Mark@epa.gov> wrote:

Agree. Let me know. I can reach out to Alex and Bryan(!).

On Fri, Feb 12, 2016 at 8:01 AM -0800, "Drinkard, Andrea" <Drinkard.Andrea@epa.gov> wrote:

From my perspective, I think this is a good idea and would take some pressure off of the regions.

From: McCabe, Janet

Sent: Friday, February 12, 2016 10:57 AM

To: Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>; Rupp, Mark <Rupp.Mark@epa.gov>; Stewart, Lori <Stewart.Lori@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>; Millett, John <Millett.John@epa.gov>; Distefano, Nichole <DiStefano.Nichole@epa.gov>

Subject: Communication with States

Sorry for the long addressee list, but I wanted to get this suggestion out widely. I am thinking that it would be a good idea to hold a call for states next week, maybe on Tuesday, to talk about the stay and seek questions. It could be either commissioner or air director level or both. I expect we could get ECOS and/or NACAA to help host it, or we could just do it ourselves, which (now that I've typed the words) I think would

be better. The purpose would be to clearly and explicitly say to people the things we've started to clarify in our communications, be very clear about the 9/6 deadline (i.e. there isn't one) and to provide an opportunity for people to ask questions, some of which we'll be able to answer and some we won't but will use the call to gather so that we can work on answers.

Please let me know your thoughts and any concerns. This is actually a pretty standard step after a big decision, and I would rather we are proactive setting this up ourselves instead of waiting for states to clamor for it (hence my evolving thinking in the first paragraph about it being an EPA hosted call).

If people agree this makes sense, we could get a note out as soon as today for a call next Tuesday or Wednesday. Thanks.

To: McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]
From: Stewart, Lori
Sent: Fri 2/12/2016 11:40:07 PM
Subject: Fwd: ACTION: Reaction of states to CPP Stay
State Reaction Tracker-021216-KM.docx
ATT00001.htm

Don't think this made it your folder.

Sent from my iPhone

Begin forwarded message:

From: "Wortman, Eric" <Wortman.Eric@epa.gov>
Date: February 12, 2016 at 2:29:52 PM EST
To: "Stewart, Lori" <Stewart.Lori@epa.gov>
Subject: FW: ACTION: Reaction of states to CPP Stay

FYI

From: Mitchell, Ken
Sent: Friday, February 12, 2016 12:29 PM
To: Drinkard, Andrea <Drinkard.Andrea@epa.gov>
Cc: Millett, John <Millett.John@epa.gov>; Rosenberg, Julie <Rosenberg.Julie@epa.gov>; Noonan, Jenny <Noonan.Jenny@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Banister, Beverly <Banister.Beverly@epa.gov>; Kemker, Carol <Kemker.Carol@epa.gov>; Gettle, Jeaneanne <Gettle.Jeaneanne@epa.gov>; Mitchell, Ken <Mitchell.Ken@epa.gov>; Wortman, Eric <Wortman.Eric@epa.gov>; Lincoln, Larry <Lincoln.Larry@epa.gov>; Riha, Kristin <Riha.Kristin@epa.gov>; Bailey, Ashten <Bailey.Ashten@epa.gov>; Senter, Stephen <Senter.Stephen@epa.gov>
Subject: ACTION: Reaction of states to CPP Stay

Andrea....

Janet asked me to poll the regions to get reaction from the states to the CPP stay. Attached is the responses I have as of now. Can someone get a copy of this to Janet before she leaves today? Thanks.

We'll update this again next week, but I suspect much of the "reaction" was stated this week.

Kenneth L. Mitchell, Ph.D. | Special Assistant to the Director |
Air, Pesticides, and Toxics Management Division
U.S. Environmental Protection Agency | 61 Forsyth Street, SW | Atlanta, GA 30303
Voice: 404-562-9065 | Fax: 404-562-9066 | Email: mitchell.ken@epa.gov
Healthier Families, Cleaner Communities, A Stronger America

NOTICE: This communication may contain privileged or other confidential information. If you are not the intended recipient, or believe that you have received this communication in error, please do not print, copy, retransmit, disseminate, or otherwise use the information. Also, please indicate to the sender that you have received this communication in error, and delete the copy you received.

To: McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Stewart, Lori[Stewart.Lori@epa.gov]; Niebling, William[Niebling.William@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; DeMocker, Jim[DeMocker.Jim@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Grundler, Christopher[grundler.christopher@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Salgado, Omayra[Salgado.Omayra@epa.gov]; Hyde, Courtney[Hyde.Courtney@epa.gov]; Shoaff, John[Shoaff.John@epa.gov]; Saltman, Tamara[Saltman.Tamara@epa.gov]; Millett, John[Millett.John@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]
From: Shaw, Betsy
Sent: Fri 2/12/2016 11:09:42 PM
Subject: Fwd: ECOSWIRE for Friday, February 12
[ECOSWIRE 18-6.doc](#)
[ATT00001.htm](#)

A long and happy President's Day weekend to all!

Sent from my iPhone

Begin forwarded message:

From: Lia Parisien <lparisien@ecos.org>
Date: February 12, 2016 at 4:17:07 PM CST
To: Lia Parisien <lparisien@ecos.org>
Subject: ECOSWIRE for Friday, February 12

ECOS Members:

In this edition:

IN THE THE NEWS

- Supreme Court halts Clean Power Plan, to mixed state response
- *ECOS Green Report* updates information on state delegation
- President's FY2017 budget request essentially flat-funds states
- State organization letter supports TSCA modernization
- ECOS issues fourth draft agenda with more confirmed speakers
- More on green infrastrucutre funding and career opportunities

STATE NEWS YOU CAN USE

- MN review prompts enhancements to water sampling procedures
- GA receives NOAA coastal resilience grant

U.S. EPA WEBINARS AND CALLS

- 2/16 - CPP Discussion with State and Local Partners
- 2/17 - Air Pollution and Heart Health Risks

- 3/1 - Draft FY17 NPM Addenda, OW
- 3/9 - Draft FY17 NPM Addenda, OAR
- 3/9 - Draft FY17 NPM Addenda, OLEM
- 3/10 - Draft FY17 NPM Addenda, OECA

ECOS WEBINARS AND CALLS

- 2/18 - ECOS/ACOEL on Working with the Regulated Community
- 2/23 - Monthly Members Only Call on Energy

Enjoy your holiday weekend!

ECOS Staff

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Lia Parisien

Executive Project Manager

Environmental Council of the States (ECOS)

(202) 266-4931

www.ecos.org

Mark your calendar for the April 11-13, 2016 ECOS Spring Meeting in Nashville, TN!



The Environmental Council of the States

Friday, February 12, 2016

Vol. 18 No. 6

ECOSWIRE

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Climate/Energy

Supreme Court Halts Clean Power Plan, to Mixed State Response

On February 9, the U.S. Supreme Court announced it was blocking U.S. EPA's Clean Power Plan (CPP) until the case can be heard by the U.S. Court of Appeals for the District of Columbia Circuit and through any subsequent Supreme Court consideration. The D.C. Circuit has scheduled a June 2 argument for lawsuits brought by 27 states and several utility industry groups opposed to the rule, with the possibility for additional argument June 3. Reactions to the Supreme Court announcement relative to the fate of the CPP have been mixed, with attorneys saying the Supreme Court's decision indicates the CPP could be in jeopardy as it heads to the courts and environmental groups believing the rule is still viable.

EPA Administrator Gina McCarthy issued a statement to agency employees expressing disappointment in the Supreme Court's decision yet vowing to continue working with states that choose to continue planning for CPP implementation. McCarthy said the agency "...will get over this CPP speed bump and move closer and closer down the road towards a low carbon future. For many of us it's been a long and winding road to get to where we are today, so one more speed bump will not deter us. EPA knows how to overcome challenges and we know how to defend our actions when they are tested."

EPA also confirmed that states will not be required to submit by September 6 initial plans for meeting emissions reduction targets.

As anticipated, state responses have been mixed, generally corresponding to previously expressed positions on the legality of the CPP. Starting on page 2 is a compilation of responses from various states. [Teplitzky]

ECOS News

ECOS Green Report Provides Comprehensive Information on State Delegation

This week, ECOS published a new ECOS Green Report on State Delegation of Environmental Acts. The report provides updated tables on the delegation to states of programs under eight core environmental statutes. In 2014-2015, ECOS gathered updated information from states to compile this information. [Hanson]

State Responses to Clean Power Plan Stay *(continued from page 1)*

State	Response
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Arizona	Eric Massey, Air Quality Division Director with the Department of Environmental Quality (DEQ), said his agency hadn't yet made a decision about what to do in the long term. DEQ will still hold a technical working group meeting among utilities and consumer interests and will continue community outreach, but Massey noted that the legal news makes it harder to explain to Arizona residents why they should be engaged about the Clean Power Plan. Massey indicated that DEQ probably can't submit a plan without "clear and express authorization" from state lawmakers, but the agency could likely continue to convene meetings and do technical work.
California	Mary Nichols, Chairwoman of the California Air Resources Board, called the Supreme Court decision a "narrowly procedural" ruling that "may create some temporary confusion." She proclaimed that the state will keep working on compliance. "California will not slow down our drive for clean air, renewable energy, and the good jobs that come from investing in green technologies," Nichols said in a statement.
Colorado	In a state in which the governor supports the Clean Power Plan and the Attorney General is challenging it in court, state officials said they would continue with their planning process. "Because the Supreme Court did not say whether the stay would change the rule's compliance deadlines, Colorado could lose valuable time if it delays its work on the state plan and the rule is ultimately upheld," read a statement from the Colorado Department of Public Health and Environment.
Iowa	The state will reach out to utilities and other parties to decide whether and how to proceed. "This is a very complex rule; it has been since the beginning," said Ben Hammes, a spokesman for Iowa Governor Terry Branstad. "The decision yesterday only makes it more complex."
Michigan	While it is among the first Republican-led states to announce it would prepare a compliance plan, the state announced that a legal review is underway to determine how it will proceed with its compliance planning process.
Minnesota	Governor Mark Dayton issued the following statement: "While the Court's temporary stay is disappointing, it does nothing to diminish our resolve in Minnesota to keep moving forward on clean energy initiatives, including the development of our state's Clean Power Plan. President Obama's strong leadership, the nation-leading initiatives of some of our state's utilities, and my administration's commitment will assure our state's continued progress. We shouldn't need a federal edict to understand how vital it is that we keep doing everything in our collective powers to reduce harmful greenhouse gas emissions, improve energy efficiency, and advance Minnesota's clean energy economy."
Montana	Governor Steve Bullock canceled the first meeting of the state's Interim Clean Power Plan Advisory Council, originally scheduled for later this month.
North Dakota	While the state remains open to developing "a common-sense carbon

	reduction strategy," the state won't be thinking of that strategy in the context of the federal Clean Power Plan. "As it looks today, I think we're going to step back," said Dave Glatt, Chief of the Environmental Health Section at the North Dakota Department of Health.
Ohio	Ohio EPA Director Craig Butler said in an emailed statement that "the Supreme Court got it right," adding, "We will evaluate the decision and determine how it will impact our plans moving forward."
Pennsylvania	"The citizens of Pennsylvania are demanding a Pennsylvania-centric plan that reduces our emissions, so we have to respond to that," said Pennsylvania Department of Environmental Protection Secretary John Quigley. "We are not going to take our foot off the gas pedal."
South Dakota	Kyrik Rombough, an engineering manager in the air quality program at South Dakota's Department of Environment and Natural Resources, said the state would suspend a series of five public meetings scheduled to begin later this month in Milbank, South Dakota.
Utah	Utah held its first public information session this month, but Glade Sowards, Utah's Clean Power Plan coordinator in the state's Division of Air Quality, said the state now is likely to shift gears. "We are going to need to think about what the implications of that are, and then we'll adjust our process accordingly," Sowards said. "We've got to meet with our team first and see how that's impacted by this – whether we mothball it or we adjust the timeline or what."
Virginia	The Virginia Department of Environmental Quality announced it would go forward with a Clean Power Plan meeting with a group of business interests and consumer advocates to hash out whether to cap carbon from power plants or fulfill the hopes of the state's biggest utility, Dominion Resources Inc., and stick to an average rate of emissions.
West Virginia	The Supreme Court has sent a message to all of the states: "Put down your pencils because the EPA has no authority to issue and force this illegal rule down your throats," West Virginia Attorney General Patrick Morrisey said during a call with reporters yesterday.
Wyoming	Governor Matt Mead said that although he considers the Supreme Court's decision "a great bit of good news," his state will continue to plan for the rule, although likely on a more relaxed timeline.

U.S. EPA to Host Call with States on CPP Decision

U.S. EPA invites state and local partners to participate in a call on **February 16 at 1 – 2 p.m. Eastern** with Acting Assistant Administrator Janet McCabe to discuss the recent Supreme Court stay of implementation and enforcement of the Clean Power Plan pending judicial review. Call-in information will be sent directly to ECOS members. For further information, contact Mark Rupp, Deputy Associate Administrator for Intergovernmental Relations in the Office of Congressional and Intergovernmental Relations, at rupp.mark@epa.gov. [Parisien]

Funding

President's FY2017 Budget Request Essentially Flat-Funds States

On February 9, U.S. EPA released the FY 2017 Presidents' Budget Request, the final one during President Obama's Administration. The President requested a \$127 million, 1.56% increase in EPA's overall budget from the FY16 enacted budget.

Budget highlights include:

- State and Tribal Assistance Grants (STAG):
 - Categorical grants for states: \$1.2B (up \$77M from FY16 enacted)
 - Request for the Environmental Information categorical grant, which would support E-Enterprise for the Environment, increased \$15.7M to \$25.3M
 - State Revolving Funds: decreased \$257M from FY16 enacted to \$2B
 - Other Notable Decreases:
 - Beaches Protection Grants: Down \$9.5M, \$0 requested
 - Radon Grants: Down \$8M, \$0 requested
- Clean Power Plan: \$25M requested to support state implementation of the Clean Power Plan, which was stayed by the Supreme Court shortly after the budget release
- Rescissions: \$0 Requested

The FY17 budget did not include a request to continue the still-to-be-distributed \$21M multipurpose grant enacted by Congress for FY2016 and strongly supported by ECOS. An EPA spokeswoman cited the modest increases in STAG funding as allowing states to "fund their highest priorities directly as part of [their] core grants."

ECOS Executive Director Alexandra Dunn spoke out in support of the flexibility offered by the \$21M multipurpose grants in an *Environment & Energy* news [article](#) and an ECOS [press release](#). Dunn's concerns with the proposed \$25M Clean Power Plan funding were quoted in an article by *Bloomberg BNA*.

See the ECOS budget summary chart [here](#). Please contact Owen McAleer at omcaleer@ecos.org with any questions. [McAleer]

State Organization Letter Supports TSCA Modernization_

Today, ECOS, the National Governors Association, Association of State and Territorial Health Officials, and National Conference of State Legislatures sent a [letter](#) to congressional leaders in support of their efforts to take reform of the Toxic Substances Control Act (TSCA) across the finish line.

The House and Senate have been working on a bipartisan effort to reform TSCA for years, and the state organizations, including ECOS, have been active participants in the process. The key goals for

states are to ensure that they are not unnecessarily preempted by the legislation from protecting the public health and environment from toxics while EPA considers action, as well as ensuring the legislation is well funded and flexible. Preservation of prior state actions is also important to include. Just within the last month, Congress has received letters from U.S. EPA as well as joint letters from 12 state attorneys general and eight state environmental protection agencies.

The ECOS Cross-Media Committee met by webinar today to discuss the House and Senate bills and what they mean for states' ability to address toxics in their jurisdictions. ECOS has released a well-received [table](#) summarizing and comparing the language of each bill along with commentary from the states. [Dunn/Davies]

State News You Can Use

Minnesota Review Prompts Enhancements to Water Sampling Procedures

After evaluating certain practices related to the handling and transportation of water quality samples, the Minnesota Department of Health (MDH) has taken swift action to strengthen its procedures. MDH is working with staff and other laboratories to ensure that test results are as accurate as possible so that the department can respond to any potential health risks.

The MDH response plan for this issue includes the following elements:

- Immediate communication and training for staff to ensure all water samples are kept at proper temperature during transport from collection site to laboratory;
- Evaluation of past monitoring results to determine which results complied with the temperature requirements;
- Prioritized retesting of water systems based on factors including past monitoring results; and
- A broad, independent review of water sample handling procedures and practices of the department.

An internal review of procedures by MDH revealed that some water quality samples testing levels of organic (e.g., fertilizer and household chemicals) and inorganic (e.g., cyanide and nitrite) compounds had not been kept at low enough temperatures during storage. This makes detection of harmful substances in water samples more difficult. While uncompromised data from other agencies indicates that citizens have not been exposed to a health threat, MDH is taking proactive measures to protect the public health and see that any errors are corrected. "While the situation as a whole would not suggest an increased risk for most communities, we want to ensure we have the highest level of reliability in our data on drinking water quality," said Minnesota Health Commissioner Ed Ehlinger.

In light of the ongoing crisis in Flint, Michigan, the sheer thought that a health risk could ever go undetected is unacceptable to citizens and state environmental regulators, and representatives of MDH are committed to ensuring that all measures are taken to maintain safe drinking water. More information is available [here](#). [Dunn/Davies]

Georgia DNR Receives NOAA Coastal Resilience Grant

The Georgia Department of Natural Resources (DNR) has been awarded funding from the National Oceanic and Atmospheric Administration (NOAA) Regional Coastal Resilience Grant program to develop a Joint Disaster Recovery and Redevelopment Plan (DRRP) for the City of Brunswick and Glynn County.

Through this award, local partners in Glynn County will be working on a collaborative approach to long-term disaster recovery for coastal communities to create stronger economies and healthier environments following a disaster. A DRRP can be used to revise city and county building codes and regulations, update land use plans, and modernize service delivery strategies. DNR will receive a total of \$140,000 to facilitate the DRRP process in Glynn County – the third coastal county to work with DNR to develop a DRRP. [Teplitzky]

Planning

State-U.S. EPA Calls Set on Draft FY17 NPM Addenda

On the heels of the FY17 President's budget release this week, U.S. EPA expects to release its draft FY17 National Program Managers (NPM) Addendum documents on February 19 for a four-week review and comment period through March 18. The "gap" year addenda allow for exceptions-based changes for 1) new initiatives or actions from the Administrator/Administration/Congress/Courts, 2) significant budgetary changes from FY 2016 that impact programs (e.g., program elimination, addition, or restructuring), 3) unanticipated events that significantly impact a NPM's program strategies/activities (e.g., emergency response to natural or man-made disasters), or 4) activities that must be initiated in FY 2017.

The ECOS-U.S. EPA Partnership and Performance Workgroup again has led efforts to host state-EPA calls on the draft documents and budget request. The schedule of state-EPA calls on the draft documents (times Eastern) follows:

- **March 1, 2 – 3 p.m.:** Office of Water Ex. 6 - Personal Privacy Code Ex. 6 - Personal Privacy
- **March 9, 2 - 3 p.m.:** Office of Air and Radiation (Call-in info TBA)
- **March 9, 3 - 4 p.m.:** Office of Land and Emergency Management (formerly OSWER) (Call-in information TBA)
- **March 10, 2 - 3 p.m.:** Office of Enforcement and Compliance Assurance (866/299-3188, Code 0872138) [Graves]

ERIS

Webinar to Explore Air Pollution and Heart Health Risks

U.S. EPA's Office of Research and Development will host a webinar on **February 17 at 3-4 p.m. Eastern** on its Healthy Heart program. Healthy Heart is the EPA's environmental health literacy program that provides information to public health practitioners, healthcare providers, and individuals at higher risk from exposure to particle pollution in the air. Healthy Heart draws on the availability of current and forecasted air quality measures on AirNow (www.airnow.gov), as well as specific guidance and recommendations for outdoor activities for patients with established heart disease. The webinar is open to state environmental and health agencies, tribes, local governments, and communities interested in learning about the steps to take to reduce health effects from air pollution.

To join the webinar, please register [here](#). For audio, dial 866/299-3188 with access code 2025646669. Telephone lines are limited and will be muted during the webinar. If you are unable to connect via phone line, you will be able listen through computer speakers. Please contact Lisa

Matthews at matthews.lisa@epa.gov for more information. Presentation slides and recordings of webinars in this series will be made available at: <http://www.epa.gov/research>. [Hanson]

Funding Opportunities

Webinar to Highlight Funding Opportunities for Green Infrastructure

On **February 24 at 2 – 3 p.m. Eastern** representatives of The Nature Conservancy and U.S. EPA's Office of Wastewater Management will discuss opportunities for funding green infrastructure projects. Joshua Kurtz from the Nature Conservancy will discuss work conducted around the country to enable use of public and private funding sources to implement green infrastructure. EPA's Holly Gavalotti will discuss innovative financing for green infrastructure projects including use of State Revolving Funds. Registration is required for the webinar and is available at: <https://attendee.gotowebinar.com/register/604982456240414465>. [Hanson]

Career Opportunities

Michigan DEQ Seeks New Chief of Water Resources Division

Bill Creal, Chief of the Water Resources Division at the Michigan Department of Environmental Quality (MDEQ), has announced his retirement after 37 years of service to the State of Michigan, effective today. The agency has begun the search for his successor.

This is a limited-term Senior Management Executive 19 position within the MDEQ's Water Resources Division and is located in Lansing, Michigan. Anyone interested in obtaining more information or applying for the position, can refer to this [job posting](#). [Parisien]

ECOS Meetings

ECOS Issues New Spring Meeting Agenda with More Confirmed Speakers

ECOS today posted a fourth draft agenda with additional speaker confirmations for the **April 10 – 13 ECOS Spring Meeting** in Nashville, Tennessee. Among the confirmed speakers for the gathering on *Pathways to Partnerships: Advancing Environmental Protection* are U.S. EPA Administrator Gina McCarthy, Acting Deputy Administrator Stan Meiburg, General Counsel Avi Garbow, and Science Advisor Thomas Burke; Major General Donald E. Jackson of the U.S. Army Corps of Engineers; U.S. Assistant Attorney General John Cruden; author Bryn Barnard on the environment-public health nexus; former ECOS President Richard Oppen, now Director of the Montana Department of Public Health and Human Services; and Nashville Mayor Megan Barry. Among the invited speakers is Bridgestone Americas CEO Gary Garfield.

ECOS is excited to offer an optional group activity in conjunction with the meeting, having secured 60 tickets for the April 12 at 7:30 p.m. "We're All for the Hall" concert at the nearby Bridgestone Arena. Featured performers will include Keith Urban, Vince Gill, Luke Bryan, Peter Frampton, Emmylou Harris, and others. Tickets are available to attendees on a first-come, first-served basis. If you are interested, please make out a check to ECOS for as many \$55 tickets as you would like and mail it to ECOS, Attention Katie Fehrenbach, 50 F Street NW, Suite 350, Washington, DC 20001. She will send an email confirmation upon receipt. Tickets will be distributed at the meeting on April

12. They are nonrefundable but may be sold by ticketholders to other interested attendees at the meeting.

Registration is open for the action-packed Spring Meeting. To take advantage of the special early rate, please register by **February 26**. As noted in the hotel section at the link below, attendees should make their own room reservations at The Omni Nashville Hotel at (800) THE-OMNI and refer to the Environmental Council of the States Spring Meeting. The special ECOS group rate is available until **March 10** or sellout of the room block, whichever is sooner.

Access online registration, hotel information, and brief tourism videos about Nashville [here](#). For questions about the agenda or hotel, contact Lia Parisien at lparisien@ecos.org. For registration and concert questions, contact Katie Fehrenbach at kfehrenbach@ecos.org. [Parisien]

ECOS Calls and Webinars

ECOS/Environmental Lawyers on Working with the Regulated Community

Mark your calendars for the first of three webinars hosted by ECOS and the American College of Environmental Lawyers (ACOEL), scheduled for **February 18 at 3:00 – 4:15 p.m. Eastern**. Titled *Techniques and Strategies for Working with the Regulated Community*, the first ECOS/ACOEL Webinar will focus on understanding and advancing creative approaches to permits and enforcement actions and working with the regulated community to achieve mutual goals. A topic outline will be circulated in the days leading up to the webinar. If you have any questions or would like to RSVP, contact Billy Davies, the ECOS Law Clerk, at wdavies@ecos.org. [Dunn/Davies]

ECOS Monthly Members Only Call

ECOS' next conference call for members only is scheduled for **February 23 at 3:30 – 4:30 p.m. Eastern**. The topic will be the future of energy and energy markets and how they impact decisions made by environmental regulators. For more information, contact Andy Teplitzky at ateplitzky@ecos.org. [Teplitzky]

To: McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; Niebling, William[Niebling.William@epa.gov]; Shaw, Betsy[Shaw.Betsy@epa.gov]
Cc: Millett, John[Millett.John@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Dennis, Allison[Dennis.Allison@epa.gov]; Cyran, Carissa[Cyran.Carissa@epa.gov]
From: Stewart, Lori
Sent: Fri 2/12/2016 10:43:41 PM
Subject: RE: Draft Hot List
[OAR Hot List 02-15-16 draft.docx](#)

Resending without the Indian Country NSR extension, which just got signed. Thanks.

OAR Hot List

Week of February 15, 2016

Clean Power Plan: The SCOTUS CPP stay decision was the chief topic of discussion this week, and while we would have preferred to cover other topics during your keynote (which all agree provided just the lift in spirits everyone needed), the 3N conference did give us the chance to talk to and hear directly from many of the state air and energy folks. Quick work from across OAR, OGC and the public affairs and outreach teams armed us with plenty of good talking points, q&a, and slides to use this week, and that we will build on going forward. In addition to 3N, I had a call with the American Sustainable Business Council and spoke at the Manufacturers of Emissions Controls Association's 40th Anniversary event in DC, which went well. Debbie went to Phoenix to speak at the Executive Women in Energy conference on Thursday. On Thursday, I joined Mark Rupp and Joe to attend a productive meeting with Jared Synder, Katie Dykes, and Gabe Pacyniak on CPP next steps and had a call with Vien Truong, the Executive Director of Green for All, on Friday about the CEIP and other Clean Power Plan issues.

Ex. 5 - Deliberative

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Next week....on Monday evening, I'm looking forward to participating in a CPP Public Forum at Bloomington, Indiana. Based on input and questions that Joe and I heard at 3N, we're planning a special call with states for Tuesday – to answer the questions that we can as far as we can, but also to gather questions that we'll need to answer soon enough. Coming up, Joe has meetings planned with NRDC, MISO, Josh Epel, Nobel Energy, and CEG.

Not Responsive

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To: McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; Niebling, William[Niebling.William@epa.gov]; Shaw, Betsy[Shaw.Betsy@epa.gov]
Cc: Millett, John[Millett.John@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Dennis, Allison[Dennis.Allison@epa.gov]; Cyran, Carissa[Cyran.Carissa@epa.gov]
From: Stewart, Lori
Sent: Fri 2/12/2016 10:30:22 PM
Subject: Draft Hot List
[OAR Hot List 02-15-16 draft.docx](#)

Not Responsive

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Not Responsive

Not Responsive

To: OAR Briefings[OAR_Briefings@epa.gov]
Cc: McCabe, Janet[McCabe.Janet@epa.gov]
From: Dennis, Allison
Sent: Fri 2/12/2016 8:43:43 PM
Subject: RE: Janet's Indiana Event Materials
JanetINQ&A2FINAL.docx

One more related document- the Q&A document.

From: Dennis, Allison
Sent: Friday, February 12, 2016 3:39 PM
To: OAR Briefings <OAR_Briefings@epa.gov>
Cc: McCabe, Janet <McCabe.Janet@epa.gov>
Subject: Janet's Indiana Event Materials

No need to print. Just for the record

To: OAR Briefings[OAR_Briefings@epa.gov]
Cc: McCabe, Janet[McCabe.Janet@epa.gov]
From: Dennis, Allison
Sent: Fri 2/12/2016 8:38:52 PM
Subject: Janet's Indiana Event Materials
[indiana.pdf](#)
[Janet McCabe Event Form20160114.docx](#)
[McCABE indiana V1.pptx](#)
[McCabe talking points IndianaFINALx.docx](#)
[Indiana background FINAL.DOCX](#)

No need to print. Just for the record

Event Information Form

This form has been designed to assist in planning participation in events and activities.
This is not a confirmation of DAA Janet McCabe's attendance.

Basic Background

Name of Event	The EPA's Clean Power Plan in Indiana
Sponsoring Organization	Monroe County Environmental Quality and Sustainability Commission
Date of Event	February 15, 2016
Time of Event	6:00-7:30 pm
Expected time of remarks or participation by DAA McCabe	Ms. McCabe would open the presentation with an overview of the Clean Power Plan (10-12 minutes) followed by the moderated discussion with all panelists (60 minutes). This would be followed by Q&A with pre-screened questions (20 minutes) for a total program length of approximately 90 minutes. Ms. McCabe is also cordially invited to be our guest at a post-event dinner if her schedule allows.
Location (please include city/town and street address)	Bloomington City Hall, Council Chambers, 401 N. Morton St, Bloomington IN 47408
Directions to the event (if appropriate, please also include relevant information about parking, the specific building, and best entrance to use)	From Indianapolis – IN 37 South to IN 46/48 exit to Bloomington. Turn S (right) on College Ave. Turn W (right) on 7 th St and then turn N (right) on Morton St. City Hall is on the left in about a block.
Where to meet POC	Dave Parson, the event coordinator, will meet YOU in the lobby of City Hall. There is parking in a lot on front of the building, public and free after 5. Dave is 5' 10", white hair, glasses and will be waving and grinning.

Event Description and Role of the DAA

Brief description or outline of the event	A moderated public forum focused on the EPA's Clean Power Plan and its impact on Indiana.
Brochure, invitation and/or other event material(s)	To Be Created
Agenda and order of speakers and biography/information of other speakers	Please see the attached draft press release for the speakers.
Name of person introducing DAA McCabe	We have talked about the following but what would Ms. McCabe like?? -- The Mayor of the City of Bloomington or the Dean of Indiana University's School of Public and Environmental Affairs
Basic information about the role of the DAA official at the event. (For example, will they	<p>The role of the DAA official will include:</p> <ul style="list-style-type: none"> • Providing an overview of the CPP, justifications for the strategies proposed in the final rule, and anticipated next steps. • Participating in a moderated discussion with

serve as a keynote speaker? Participate on a panel? Take part in a press conference? Tour a facility?)	<p>other panelists about challenges (perceived or real), next steps, positive impacts, and the “big picture” considerations that support the CPP.</p> <ul style="list-style-type: none"> Responding to written questions submitted by the audience.
If the DAA official is a featured speaker, which topic(s) should they address and how long?	See above
What rules would the audience like to hear about?	CPP
Will there be time for Q&A? If so, who will be moderating?	Yes. Bob Zaltsberg, editor of the Bloomington Herald-Times newspaper and an experienced moderator, will moderate both the panel discussion and audience questions.
Do you have a sense of the types of questions that may be asked?	Some High School students ‘questions about the predicted future impact of climate change, some from IU teachers and students, and some from activists on both sides.
Recommendations on the use of visuals/PowerPoint. Should the DAA official plan on using a PowerPoint Presentation?	PP/visuals may be helpful during the introductory overview of CPP.
What is the physical layout of the room (e.g. size, and format of the interaction; podium, seated in armchair dialogue, or at a table, etc.)	Public meeting room with main floor and balcony. Has raised dias across the front of the room and podium.

About the Audience

Please tell us about the make-up of the audience for the event:	IU students and staff, local residents concerned about the CPP (probably pro and con), people active in groups pushing clean fuels/opposing coal, and high school students.
Expected number in attendance at the event	150
Will it be largely members of your organization?	No, this will be publicized and open to the public.
Will others be in attendance? If so, who will be at the event? (General public, Businesspeople, Educators, Families, Students – what grade level, Children – how old)	General public, interested citizens, business people, IU educators and IU students, some HS students. People from interest groups such as Sierra Club, Hoosier Environmental Council.
Others? (Please describe)	
Is the event open to press?	Definitely. We will have media coverage.

Contact Information

Your name:	David N. Parsons
Telephone Number:	812 824-6875
Mailing Address:	<div style="border: 1px dashed black; padding: 10px; text-align: center;"> Ex. 6 - Personal Privacy </div>
E-Mail Address:	

Cell Phone Number:	Ex. 6 - Personal Privacy	
Fax Number:		
Best way to reach you at the event?		

EPA Contact Person

Emily Atkinson, Administrative Assistant to Janet McCabe: 202-564-7403

Andrea Drinkard, Public Affairs Specialist: 202-564-1601

To: Rosenberg, Julie[Rosenberg.Julie@epa.gov]; Miller, Julia[Miller.Julia@epa.gov]; Millett, John[Millett.John@epa.gov]; Mitchell, Ken[Mitchell.Ken@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]; Wortman, Eric[Wortman.Eric@epa.gov]
Cc: McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]
From: Drinkard, Andrea
Sent: Fri 2/12/2016 8:12:29 PM
Subject: Invitation to the State-Only Call on the CPP

Hi all—

See invitation below. Please get this out to your lists ASAP. Thanks and let me know if you have any questions.

Mark: ECOS, NGA, NCSL, USCM, NCL

Julia: NACAA, AAPCA, NARUC, NASEO

Ken: Regions

Please feel free to ask the national orgs to send us their top three questions so that we have some fodder to kick off the Q&A portion with.

Subject: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Dear Colleague:

We are pleased to invite you to participate in a call with Acting Assistant Administrator

Janet McCabe to discuss the recent Supreme Court stay of implementation and enforcement of the Clean Power Plan pending judicial review.

Background

On February 9, 2016, the Supreme Court stayed implementation and enforcement of the Clean Power Plan pending judicial review. EPA firmly believes the Clean Power Plan will be upheld when the merits are weighed by the court because the Clean Power Plan rests on strong scientific and legal foundations. During the pendency of the stay, implementation and enforcement of the Clean Power Plan are on hold. EPA will continue to work with states that want to work with us on a voluntary basis.

Date: February 16, 2016

Time: 1:00pm Eastern

Call-in: Not Responsive conference ID Not Responsive

Please dial in 10 minutes before your call's start time to ensure your participation.

We look forward to your participation. Information about the Clean Power Plan can be found on our website: www.epa.gov/cleanpowerplan

To: Wortman, Eric[Wortman.Eric@epa.gov]; Rosenberg, Julie[Rosenberg.Julie@epa.gov]; Mitchell, Ken[Mitchell.Ken@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Miller, Julia[Miller.Julia@epa.gov]; Millett, John[Millett.John@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]; Friedman, Kristina[Friedman.Kristina@epa.gov]
Cc: Harrison, Melissa[Harrison.Melissa@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]
From: Rupp, Mark
Sent: Fri 2/12/2016 7:04:11 PM
Subject: RE: Email to ADDs, PADs, and RAs

Will do. Thanks.

On Fri, Feb 12, 2016 at 11:01 AM -0800, "Drinkard, Andrea" <Drinkard.Andrea@epa.gov> wrote:

Thanks everyone for the quick reply. Here's the final language of the email and the attachments for the Regions. The invitation to Tuesday's call is coming ASAP. We're just waiting on the call in information.

Eric, Ken, John, and Mark, can you send this out to your lists ASAP?

Janet, Joe, Melissa and Elliott – FYI

Hello Regions,

Thank you all for participating on the calls this past week on the Supreme Court's stay of the Clean Power Plan. We know that you are getting questions from your states and stakeholders and have upcoming meetings on the calendar. To help answer some of those questions and to give you some talking points to use when you're out and about, we've prepared the attached materials. The Q&As and talking points are internal, but the slide is external. We know that

these materials will not answers all of the questions you may get, but they represent our current thinking. As time goes on and our interpretation and understanding of the Court's decision evolves, we will provide additional information and materials, as necessary.

We are also planning to hold a call for states on Tuesday, February 16 at 1PM EST. Janet will lead the call and we hope that it will give the states the opportunity to ask questions and to benefit from hearing the answers to questions that others may ask. We expect to send an invite through the national organizations this afternoon, which we will share with you as soon as we have all of the details nailed down. Please feel free to share that information with your states.

Lastly, we have worked with your Regional CPP leads and Ken Mitchell to set up a process for collecting and accounting for all of the questions that we're receiving. This process will also help us develop responses in an efficient and coordinated fashion. Ken Mitchell is also compiling a list of meetings and events with external groups about the CPP. I'd ask that you continue to coordinate with him on upcoming events.

To: Mitchell, Ken[Mitchell.Ken@epa.gov]; Millett, John[Millett.John@epa.gov]; Rosenberg, Julie[Rosenberg.Julie@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]; Friedman, Kristina[Friedman.Kristina@epa.gov]; Miller, Julia[Miller.Julia@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]; Wortman, Eric[Wortman.Eric@epa.gov]
Cc: McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Harrison, Melissa[Harrison.Melissa@epa.gov]
From: Drinkard, Andrea
Sent: Fri 2/12/2016 7:01:13 PM
Subject: RE: Email to ADDs, PADs, and RAs
CPP Stay-slide Feb 11 2016 FINAL.pptx
Qs on CPP SCOTUS for regions Feb11 FINAL.docx
Talking points for slide on CPP stay FINAL.docx

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Stay



Supreme Court Stays the Clean Power Plan

- On February 9, 2016, the Supreme Court stayed implementation and enforcement of the Clean Power Plan pending judicial review. The Court's decision was not on the merits of the rule.
- EPA firmly believes the Clean Power Plan will be upheld when the merits are considered because the rule rests on strong scientific and legal foundations.
- For the states that choose to continue to work to cut carbon pollution from power plants and seek the agency's guidance and assistance, EPA will continue to provide tools and support.
- EPA will make additional information available as necessary.

Key Points

- Implementation and enforcement are on hold.
- Initial submittals not required on September 6, 2016.
- EPA will continue to work with states that want to work with us on a voluntary basis.

To: McCabe, Janet[McCabe.Janet@epa.gov]
From: Ken Kimmell
Sent: Fri 2/12/2016 6:00:19 PM
Subject: CPP stay

Janet, I have been meaning to write since Tuesday night, and I figured better late than never.

I imagine that you must feel shell shocked right now. I know I do. While It is always risky to speculate on what a court might be thinking, I believe it is possible that one or more of the Justices wanted the fullness of time to sort this out, and that the ruling is therefore not a clear signal that a majority will overturn the CPP. I wanted to you know that we will do everything we can to keep progress moving while the litigation is pending, and to influence the outcome of the ruling on the merits.

And that we are thinking of you, and the Administrator, and how this must feel.

Ken

PS—If you could forward this to the Administrator, that would be great.

Ken Kimmell

President

Union of Concerned Scientists

Tel: (617) 547-5552

Twitter: @KenKimmell

The Union of Concerned Scientists puts rigorous, independent science to work to solve our planet's most pressing problems. Joining with citizens across the country, we combine technical analysis and effective advocacy to create innovative, practical solutions for a healthy, safe, and sustainable future.

www.ucsusa.org | Take action with our [citizen network](#) or [expert network](#). | [Support our work](#). |

Join the conversation on our [blog](#) or follow us on [Facebook](#) and [Twitter](#).

To: McCabe, Janet[McCabe.Janet@epa.gov]
Cc: Rupp, Mark[Rupp.Mark@epa.gov]; Atkinson, Emily[Atkinson.Emily@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Culligan, Kevin[Culligan.Kevin@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Stewart, Lori[Stewart.Lori@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Millett, John[Millett.John@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; Rosenberg, Julie[Rosenberg.Julie@epa.gov]
From: Drinkard, Andrea
Sent: Fri 2/12/2016 5:11:02 PM
Subject: RE: Communication with States

Yep. My plan was to notify them about the call when we sent the materials out this afternoon. Mark, let's add that to the discussion list.

From: McCabe, Janet
Sent: Friday, February 12, 2016 12:10 PM
To: Drinkard, Andrea <Drinkard.Andrea@epa.gov>
Cc: Rupp, Mark <Rupp.Mark@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Stewart, Lori <Stewart.Lori@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Distefano, Nichole <DiStefano.Nichole@epa.gov>; Page, Steve <Page.Steve@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Millett, John <Millett.John@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Rosenberg, Julie <Rosenberg.Julie@epa.gov>
Subject: Re: Communication with States

We need to let the regions, including the RAs, know.

Sent from my iPhone

On Feb 12, 2016, at 12:09 PM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:

Hi all—

We're moving forward with setting up a call with the states at 1PM on Tuesday.

Mark/Julie/Jenny/Vera, let's talk about logistics.

From: Rupp, Mark

Sent: Friday, February 12, 2016 11:09 AM

To: Atkinson, Emily <Atkinson.Emily@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Stewart, Lori <Stewart.Lori@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Distefano, Nichole <DiStefano.Nichole@epa.gov>; Page, Steve <Page.Steve@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Millett, John <Millett.John@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>

Subject: RE: Communication with States

And at the risk of getting too large, would recommend inviting governors' reps

On Fri, Feb 12, 2016 at 8:05 AM -0800, "Rupp, Mark" <Rupp.Mark@epa.gov> wrote:

Agree. Let me know. I can reach out to Alex and Bryan(!).

On Fri, Feb 12, 2016 at 8:01 AM -0800, "Drinkard, Andrea" <Drinkard.Andrea@epa.gov> wrote:

From my perspective, I think this is a good idea and would take some pressure off of the regions.

From: McCabe, Janet

Sent: Friday, February 12, 2016 10:57 AM

To: Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>; Rupp, Mark <Rupp.Mark@epa.gov>; Stewart, Lori <Stewart.Lori@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>; Millett, John <Millett.John@epa.gov>; Distefano, Nichole <DiStefano.Nichole@epa.gov>

Subject: Communication with States

Sorry for the long addressee list, but I wanted to get this suggestion out widely. I am thinking that it would be a good idea to hold a call for states next week, maybe on Tuesday, to talk about the stay and seek questions. It could be either commissioner or air director level or both. I expect we could get ECOS and/or NACAA to help host it, or we could just do it ourselves, which (now that I've typed the words) I think would be better. The purpose would be to clearly and explicitly say to people the things we've started to clarify in our communications, be very clear about the 9/6 deadline (i.e. there isn't one) and to provide an opportunity for people to ask questions, some of which we'll be able to answer and some we won't but will use the call to gather so that we can work on answers.

Please let me know your thoughts and any concerns. This is actually a pretty standard step after a big decision, and I would rather we are proactive setting this up ourselves instead of waiting for states to clamor for it (hence my evolving thinking in the first paragraph about it being an EPA hosted call).

If people agree this makes sense, we could get a note out as soon as today for a call next Tuesday or Wednesday. Thanks.

To: Rupp, Mark[Rupp.Mark@epa.gov]; Atkinson, Emily[Atkinson.Emily@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Culligan, Kevin[Culligan.Kevin@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Stewart, Lori[Stewart.Lori@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Millett, John[Millett.John@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Rosenberg, Julie[Rosenberg.Julie@epa.gov]
From: Drinkard, Andrea
Sent: Fri 2/12/2016 5:08:55 PM
Subject: RE: Communication with States

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EPA hosted call).

If people agree this makes sense, we could get a note out as soon as today for a call next Tuesday or Wednesday. Thanks.

To: Fritz, Matthew[Fritz.Matthew@epa.gov]
From: Morales, Esther
Sent: Fri 2/12/2016 4:54:36 PM
Subject: Weekly Administrator's Report 02 12 16
160212 FINAL Weekly Administrator's Report.docx

Good afternoon all,

Please find attached the final Administrator's Report covering the reporting period of February 12 – February 21, 2016.

Let us know if you have additional questions.

Best,

Esther F. Morales

White House Liaison

(202) 564-3580 desk

(202) 573-6324 cell

Morales.Esther@epa.gov

EPA WEEKLY ADMINISTRATOR'S REPORT
February 12, 2016 – February 21, 2016

Not Responsive

Climate/Energy:

Office of Air and Radiation Acting Assistant Administrator Janet McCabe and Associate Assistant Administrator for Climate Joseph Goffman will continue to meet with stakeholders regarding the Climate Action Plan:

- On February 15, Acting Assistant Administrator McCabe is participating in a public forum on “The EPA’s Clean Power Plan in Indiana,” sponsored by the Monroe County Environmental Quality and Sustainability Commission. Open Press, Bloomington, IN.

Not Responsive

- On February 16, Acting Assistant Administrator McCabe and Associate Assistant Administrator Goffman will meet with Clair Moeller of MISO Energy about the Clean Power Plan. Closed Press, Washington, DC.
- On February 16, Associate Assistant Administrator Goffman will meet with representatives from NRDC about the Clean Power Plan. Closed Press, Washington, DC.
- On February 17, Acting Assistant Administrator McCabe and Associate Assistant Administrator Goffman will meet with Oklahoma Corporation Commissioner Todd Hiett about the Clean Power Plan. Closed Press, Washington, DC.
- On February 17, Associate Assistant Administrator Goffman will meet with representatives from Noble Energy. Closed Press, Washington, DC.
- On February 18, Associate Assistant Administrator Goffman will meet with representatives from M.J. Bradley & Associates’ Clean Power Plan Initiative and the Clean Energy Group. Closed Press, Washington, DC.

Not Responsive

Not Responsive

Not Responsive

Not Responsive

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Not Responsive

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Not Responsive

To: Zenick, Elliott[Zenick.Elliott@epa.gov]
Cc: McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Millett, John[Millett.John@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Ashley, Jackie[Ashley.Jackie@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]
From: Drinkard, Andrea
Sent: Fri 2/12/2016 4:51:17 PM
Subject: RE: FOR REVIEW: Slide, talkers, Q&A for review

Ex. 5 - Deliberative	Ex. 5 - Deliberative I'll make those edits. Thanks.
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From: Zenick, Elliott
Sent: Friday, February 12, 2016 11:46 AM
To: Drinkard, Andrea <Drinkard.Andrea@epa.gov>
Cc: McCabe, Janet <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Millett, John <Millett.John@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Ashley, Jackie <Ashley.Jackie@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Noonan, Jenny <Noonan.Jenny@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>
Subject: Re: FOR REVIEW: Slide, talkers, Q&A for review

Ex. 5 - Attorney Client

Sent from my iPhone

On Feb 12, 2016, at 10:34 AM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:

Hi all—

I've updated the slides, talkers and Q&A that will go to the regions based on Joe's edits and your note below, Janet.

Ex. 5 - Deliberative	Ex. 5 - Deliberative If there are no additional edits, I'll work with OAQPS and
-----------------------------	---

Ken to get these out to the ADDs today.

Thanks.

From: McCabe, Janet

Sent: Friday, February 12, 2016 9:15 AM

To: Drinkard, Andrea <Drinkard.Andrea@epa.gov>

Cc: Goffman, Joseph <Goffman.Joseph@epa.gov>; Millett, John <Millett.John@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Ashley, Jackie <Ashley.Jackie@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>

Subject: Re: FOR REVIEW: Slide, talkers, Q&A for review

Ex. 5 - Deliberative

Ex. 5 - Deliberative

Ex. 5 - Deliberative

Sent from my iPhone

On Feb 11, 2016, at 7:11 PM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:

Apologies for the late email, but this is what we plan to share with the regions tomorrow. This is all based on existing materials. Let me know if you have any questions or edits.

Andrea Drinkard

(o) 202.564.1601

(c) 202.236.7765

Begin forwarded message:

From: "Ashley, Jackie" <Ashley.Jackie@epa.gov>
Date: February 11, 2016 at 4:37:41 PM EST
To: "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>, "Noonan, Jenny" <Noonan.Jenny@epa.gov>
Cc: "Kornylak, Vera S." <Kornylak.Vera@epa.gov>, "Cortelyou-Lee, Jan" <Cortelyou-Lee.Jan@epa.gov>
Subject: Slide, talkers, Q&A for review

Andrea –

We have a vision for a small “region pack” that we’d like send around on Friday. It’s a slide, some talkers, and the 2-page Q&A. Could you please get Janet/Joe review as appropriate and let Jenny/Jan know when it’s cleared to send to Ken M for distribution? Thanks.

 Jackie Ashley - US EPA - Office of Air Quality Planning and Standards - 919-541-7664 –
ashley.jackie@epa.gov

<Qs on CPP SCOTUS for regions Feb11_230pm.docx>

<CPP Stay-slide Feb 11 2016 v2.pptx>

<Talking points for slide on CPP stay.docx>

<Qs on CPP SCOTUS for regions Feb11_FINAL.docx>

<Talking points for slide on CPP stay FINAL.docx>

<CPP Stay-slide Feb 11 2016 v2.pptx>

To: Drinkard, Andrea[Drinkard.Andrea@epa.gov]
Cc: McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Millett, John[Millett.John@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Ashley, Jackie[Ashley.Jackie@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]
From: Zenick, Elliott
Sent: Fri 2/12/2016 4:45:38 PM
Subject: Re: FOR REVIEW: Slide, talkers, Q&A for review

Ex. 5 - Attorney Client

Sent from my iPhone

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Ex. 5 - Deliberative

Ex. 5 - Deliberative

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Subject: Re: FOR REVIEW: Slide, talkers, Q&A for review

Ex. 5 - Deliberative

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(o) 202.564.1601

(c) 202.236.7765

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From: "Ashley, Jackie" <Ashley.Jackie@epa.gov>
Date: February 11, 2016 at 4:37:41 PM EST
To: "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>, "Noonan, Jenny" <Noonan.Jenny@epa.gov>
Cc: "Kornylak, Vera S." <Kornylak.Vera@epa.gov>, "Cortelyou-Lee, Jan" <Cortelyou-Lee.Jan@epa.gov>
Subject: Slide, talkers, Q&A for review

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Jackie Ashley - US EPA - Office of Air Quality Planning and Standards - 919-541-7664 –
ashley.jackie@epa.gov

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<Talking points for slide on CPP stay.docx>

<Qs on CPP SCOTUS for regions Feb11_FINAL.docx>

<Talking points for slide on CPP stay FINAL.docx>

<CPP Stay-slide Feb 11 2016 v2.pptx>

To: McCabe, Janet[McCabe.Janet@epa.gov]
Cc: Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Culligan, Kevin[Culligan.Kevin@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]; Stewart, Lori[Stewart.Lori@epa.gov]; Atkinson, Emily[Atkinson.Emily@epa.gov]; Millett, John[Millett.John@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]
From: Schmidt, Lorie
Sent: Fri 2/12/2016 4:41:33 PM
Subject: Re: Communication with States

Ex. 5 - Attorney Client

Lorie J. Schmidt
 Associate General Counsel for Air and Radiation
 Office of General Counsel
 US Environmental Protection Agency
 (202)564-1681

Sent from my iPhone

On Feb 12, 2016, at 8:56 AM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

Sorry for the long addressee list, but I wanted to get this suggestion out widely. I am thinking that it would be a good idea to hold a call for states next week, maybe on Tuesday, to talk about the stay and seek questions. It could be either commissioner or air director level or both. I expect we could get ECOS and/or NACAA to help host it, or we could just do it ourselves, which (now that I've typed the words) I think would be better. The purpose would be to clearly and explicitly say to people the things we've started to clarify in our communications, be very clear about the 9/6 deadline (i.e. there isn't one) and to provide an opportunity for people to ask questions, some of which we'll be able to answer and some we won't but will use the call to gather so that we can work on answers.

Please let me know your thoughts and any concerns. This is actually a pretty standard step after a big decision, and I would rather we are proactive setting this up ourselves instead of waiting for states to clamor for it (hence my evolving thinking in the first paragraph about it being an EPA hosted call).

If people agree this makes sense, we could get a note out as soon as today for a call next

Tuesday or Wednesday. Thanks.

To: Jordan, Deborah[Jordan.Deborah@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]
From: Rupp, Mark
Sent: Fri 2/12/2016 4:14:39 PM
Subject: Fwd: NGA CPP Workshop Back On

Ex. 5 - Deliberative

----- Forwarded message -----

From: "Wasserman, Aliza" <AWasserman@NGA.ORG>
Date: Fri, Feb 12, 2016 at 6:11 AM -0800
Subject: NGA CPP Workshop Back On
To: "sarah.adair@duke.edu" <sarah.adair@duke.edu>, "glen.andersen@ncsl.org" <glen.andersen@ncsl.org>, "erin.boyd@hq.doe.gov" <erin.boyd@hq.doe.gov>, "patrick.cummins@colostate.edu" <patrick.cummins@colostate.edu>, "paul.donohoo-vallett@doe.gov" <paul.donohoo-vallett@doe.gov>, "dfarnsworth@raponline.org" <dfarnsworth@raponline.org>, "annamaria.garcia@ee.doe.gov" <annamaria.garcia@ee.doe.gov>, "Nazmi, Niloufar" <Nazmi.Niloufar@epa.gov>, "pedersen.dick@deq.state.or.us" <pedersen.dick@deq.state.or.us>, "apeskoe@law.harvard.edu" <apeskoe@law.harvard.edu>, "Ron Lehr" <rlllehr@msn.com>, "bap@nbggroup.com" <bap@nbggroup.com>, "Paul@rff.org" <Paul@rff.org>, "Rupp, Mark" <Rupp.Mark@epa.gov>, "rsobin@naseo.org" <rsobin@naseo.org>, "daniel.steinberg@nrel.gov" <daniel.steinberg@nrel.gov>, "johanna.zetterberg@ee.doe.gov" <johanna.zetterberg@ee.doe.gov>, "Zimpfer, Amy" <Zimpfer.Amy@epa.gov>, "Jordan, Deborah" <Jordan.Deborah@epa.gov>, "tcurry@mjbbradley.com" <tcurry@mjbbradley.com>, "PAssmus@4cleanair.org" <PAssmus@4cleanair.org>, "mkeogh@naruc.org" <mkeogh@naruc.org>, "robnelson@mt.gov" <robnelson@mt.gov>, "Johanna.Zetterberg@ee.doe.gov" <Johanna.Zetterberg@ee.doe.gov>
Cc: "Gander, Sue" <sgander@NGA.ORG>, "Cramer, Samuel" <SCramer@NGA.ORG>, "McKeown, Denise" <DMcKeown@NGA.ORG>, "Rackley, Jessica" <JRackley@NGA.ORG>, "Lauf, Daniel" <DLauf@NGA.ORG>, "Kambour, Andrew" <AKambour@NGA.ORG>

Dear Speakers –

After polling our registered participants from states and seeing that nearly all are still interested in attending the CPP workshop to hear from you and each other, we are going to proceed with the workshop on March 4-5 in San Jose, California.

We are going to adjust the agenda to include an opening panel on the legal matters, and we'll get you the adjusted workshop agenda next week. Since we are making adjustments to the schedule, please let me know ASAP if you will not be available to speak at some point during the 1.5 days, so that we can make sure to keep your talking slot at a time that you can make. We appreciate your flexibility.

All presentations will now be most relevant within the context of the stay ruling, so we appreciate you taking time to prepare remarks accordingly. We can talk that over during the prep calls next week.

Please book your hotel and travel today. If you have not yet registered, please contact Denise, copied here, who can direct you to the official registration page with logistics on how to book travel.

If you need to talk about anything today, I'll be on my cell at 609-865-6447.

Regards,

Aliza

From: Wasserman, Aliza

Sent: Wednesday, February 10, 2016 12:53 PM

To: Wasserman, Aliza <AWasserman@NGA.ORG>

Cc: Gander, Sue <sgander@NGA.ORG>; Kambour, Andrew <AKambour@NGA.ORG>; McKeown, Denise <DMcKeown@NGA.ORG>

Subject: Hold on Travel Plans for CPP workshop in San Jose

Dear Speakers for the NGA workshop on CPP –

Given the Supreme Court ruling on the CPP we are currently polling our members to see if there is still interest in attending the CPP workshop on March 4-5 in San Jose.

As we gather this information, please hold off on making travel plans. We are currently still inclined to proceed with this workshop, but will make the final call by Friday.

We will be back in touch asap.

Thank you,

Aliza

Aliza Wasserman

Program Director, Energy & Environment

National Governors Association Center for Best Practices

202-624-5387

The information contained in this electronic transmission, including any attachments, is for the exclusive use of the intended recipient(s) and may contain information that is privileged, proprietary, and/or confidential. If the reader of this transmission is not an intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any review, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify the sender and delete this message.

To: Atkinson, Emily[Atkinson.Emily@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Culligan, Kevin[Culligan.Kevin@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Stewart, Lori[Stewart.Lori@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Millett, John[Millett.John@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]
From: Rupp, Mark
Sent: Fri 2/12/2016 4:08:59 PM
Subject: RE: Communication with States

And at the risk of getting too large, would recommend inviting governors' reps

On Fri, Feb 12, 2016 at 8:05 AM -0800, "Rupp, Mark" <Rupp.Mark@epa.gov> wrote:

Agree. Let me know. I can reach out to Alex and Bryan(!).

On Fri, Feb 12, 2016 at 8:01 AM -0800, "Drinkard, Andrea" <Drinkard.Andrea@epa.gov> wrote:

From my perspective, I think this is a good idea and would take some pressure off of the regions.

From: McCabe, Janet

Sent: Friday, February 12, 2016 10:57 AM

To: Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>; Rupp, Mark <Rupp.Mark@epa.gov>; Stewart, Lori <Stewart.Lori@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>; Millett, John <Millett.John@epa.gov>; Distefano, Nichole <DiStefano.Nichole@epa.gov>

Subject: Communication with States

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If people agree this makes sense, we could get a note out as soon as today for a call next Tuesday or Wednesday. Thanks.

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From: Rupp, Mark
Sent: Fri 2/12/2016 4:05:03 PM
Subject: RE: Communication with States

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From: Drinkard, Andrea
Sent: Fri 2/12/2016 4:01:26 PM
Subject: RE: Communication with States

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Sent: Friday, February 12, 2016 10:57 AM
To: Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>; Rupp, Mark <Rupp.Mark@epa.gov>; Stewart, Lori <Stewart.Lori@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>; Millett, John <Millett.John@epa.gov>; Distefano, Nichole <DiStefano.Nichole@epa.gov>
Subject: Communication with States

Sorry for the long addressee list, but I wanted to get this suggestion out widely. I am thinking that it would be a good idea to hold a call for states next week, maybe on Tuesday, to talk about the stay and seek questions. It could be either commissioner or air director level or both. I expect we could get ECOS and/or NACAA to help host it, or we could just do it ourselves, which (now that I've typed the words) I think would be better. The purpose would be to clearly and explicitly say to people the things we've started to clarify in our communications, be very clear about the 9/6 deadline (i.e. there isn't one) and to provide an opportunity for people to ask questions, some of which we'll be able to answer and some we won't but will use the call to gather so that we can work on answers.

Please let me know your thoughts and any concerns. This is actually a pretty standard step after

a big decision, and I would rather we are proactive setting this up ourselves instead of waiting for states to clamor for it (hence my evolving thinking in the first paragraph about it being an EPA hosted call).

If people agree this makes sense, we could get a note out as soon as today for a call next Tuesday or Wednesday. Thanks.

To: Millett, John[Millett.John@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]
From: Drinkard, Andrea
Sent: Fri 2/12/2016 3:36:52 PM
Subject: RE: Was there a WSJ editorial on the stay?

Here's the full piece:

Pulling the Plug on Obama's Power Plan

The Supreme Court sent a clear message: Your clean-energy strong-arming campaign must stop.



President Obama presenting his Clean Power Plan, Aug. 3, 2015. *PHOTO: OLIVIER DOULIERY/BLOOMBERG NEWS*

By

DAVID B. RIVKIN JR. and

ANDREW M. GROSSMAN

Feb. 10, 2016 6:58 p.m. ET

58 COMMENTS

President Obama's Clean Power Plan is dead and will not be resurrected. The cause of death was hubris. As a result, the plan's intended victims—including the national coal industry, the rule of law and state sovereignty—will live to fight another day.

On Tuesday the Supreme Court put President Obama's signature climate initiative on hold while a lower court considers challenges brought by industry opponents and 27 states. That stay will remain in effect through the end of Mr. Obama's presidency, until the Supreme Court has a chance to hear the case—in 2017 at the earliest. The stay sends the strongest possible signal that the court is prepared to strike down the Clean Power Plan on the merits, assuming the next president doesn't revoke it.

Not since the court blocked President Harry Truman's seizure of the steel industry has it so severely rebuked a president's abuse of power.

The dubious legal premise of the Clean Power Plan was that Congress, in an all-but-forgotten 1970s-era provision of the Clean Air Act, had empowered the Environmental Protection Agency to displace the states in regulating power generation. The EPA, in turn, would use that authority to mandate a shift from fossil-fuel-fired plants to renewables. The effect would be to institute by fiat the "cap and trade" scheme for carbon emissions that the Obama administration failed to push through Congress in 2009.

The legal defects inherent in this scheme are legion. For one, in a ruling two years ago the court held that the EPA couldn't conjure up authority to make "decisions of vast economic and political significance" absent a clear statement from Congress. Thus, the EPA may have the authority to require power plants to operate more efficiently and to install reasonable emissions-reduction technologies. But nothing authorizes the agency to pick winners (solar, wind) and losers (coal) and order generation to be shifted from one to the other, disrupting billion-dollar industries in the process.

The agency also overstepped its legal authority by using a tortured redefinition of "system of emission reduction." That statutory term has always been taken to give authority to regulate plant-level equipment and practices. Instead the EPA contorted the term to apply to the entire power grid. That redefinition, while necessary for the EPA to mount its attack on traditional power sources, violates the rule that federal statutes must be interpreted, absent a clear indication to the contrary, to maintain the existing balance of power between the federal government and the states. Federal law has long recognized states' primacy in regulating their electric utilities, the economic aspects of power generation and transmission, and electric reliability.

Worse, the Clean Power Plan commandeers the states and their officials to do the dirty work that the EPA can't. The agency seeks to phase out coal-fired plants, but it lacks any ability to regulate electric reliability, control how and when plants are run, oversee the planning and construction of new generators and transmission lines, or take any other of the many steps necessary to bring the plan to fruition.

Only the states can do those things, and the plan simply assumes that they will: Because, if they refuse, and the federal government forces coal-plant retirements, the result would be catastrophic, featuring regular blackouts, threats to public health and safety and unprecedented spikes in electricity prices.

The EPA defended this approach before the Supreme Court during legal arguments leading up to Tuesday's stay order as a "textbook exercise of cooperative federalism." But the textbook—our Constitution as interpreted by the court in case after case—guarantees that the states can't be dragooned into administering federal law and implementing federal policy. Their sovereignty and political accountability require that they have the power to decline any federal entreaty. The Clean Power Plan denies them that choice.

No doubt the court was swayed by evidence that the states already are laboring to accommodate the plan's forced retirement and reduced utilization of massive amounts of generating capacity. Given the years that it takes to bring new capacity online, not even opponents of the plan could afford to wait for the conclusion of judicial review to begin carrying out the EPA's mandate.

By all appearances, that was the Obama administration's strategy for forcing the Clean Power Plan, legal warts and all, into effect. After the court ruled last term that the EPA's rule regulating power plants' hazardous air emissions was unlawful, the agency bragged that the judgment wouldn't make a difference because the plants had already been forced to comply or retire during the years of litigation. The Clean Power Plan doubled down on that approach.

It's one thing for a rule to be unlawful—which happens, and rarely merits a stay—but another for it to be lawless. This one was lawless. That is why the court had to act: to reassert the rule of law over an executive who believes himself above it.

Messrs. Rivkin and Grossman practice appellate and constitutional law in Washington, D.C., and are counsel in the case on behalf of plan challengers. Mr. Rivkin served in the White House Counsel's Office and the Justice Department in the Reagan and George H.W. Bush administrations.

From: Millett, John
Sent: Friday, February 12, 2016 7:32 AM
To: McCabe, Janet <McCabe.Janet@epa.gov>
Cc: Drinkard, Andrea <Drinkard.Andrea@epa.gov>
Subject: Re: Was there a WSJ editorial on the stay?

Yes -- I can only get the 1st two grafts though --

Pulling the Plug on Obama's Power Plan

The Supreme Court sent a clear message: Your clean-energy strong-arming campaign must stop.

By

DAVID B. RIVKIN JR. and

ANDREW M. GROSSMAN

Feb. 10, 2016 6:58 p.m. ET

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John Millett

202.510.1822

On Feb 11, 2016, at 11:54 PM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

To: McCabe, Janet[McCabe.Janet@epa.gov]
Cc: Goffman, Joseph[Goffman.Joseph@epa.gov]; Millett, John[Millett.John@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Ashley, Jackie[Ashley.Jackie@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]
From: Drinkard, Andrea
Sent: Fri 2/12/2016 3:34:02 PM
Subject: RE: FOR REVIEW: Slide, talkers, Q&A for review
Qs on CPP SCOTUS for regions Feb11 FINAL.docx
Talking points for slide on CPP stay FINAL.docx
CPP Stay-slide Feb 11 2016 v2.pptx

Hi all—

I've updated the slides, talkers and Q&A that will go to the regions based on Joe's edits and your note below, Janet

Ex. 5 - Deliberative

Ex. 5 - Deliberative If there are no additional edits, I'll work with OAQPS and Ken to get these out to the ADDs today.

Thanks.

From: McCabe, Janet
Sent: Friday, February 12, 2016 9:15 AM
To: Drinkard, Andrea <Drinkard.Andrea@epa.gov>
Cc: Goffman, Joseph <Goffman.Joseph@epa.gov>; Millett, John <Millett.John@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Ashley, Jackie <Ashley.Jackie@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>
Subject: Re: FOR REVIEW: Slide, talkers, Q&A for review

Ex. 5 - Deliberative

Ex. 5 - Deliberative

Sent from my iPhone

On Feb 11, 2016, at 7:11 PM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:

Apologies for the late email, but this is what we plan to share with the regions tomorrow. This is all based on existing materials. Let me know if you have any questions or edits.

Andrea Drinkard

(o) 202.564.1601

(c) 202.236.7765

Begin forwarded message:

From: "Ashley, Jackie" <Ashley.Jackie@epa.gov>
Date: February 11, 2016 at 4:37:41 PM EST
To: "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>, "Noonan, Jenny" <Noonan.Jenny@epa.gov>
Cc: "Kornylak, Vera S." <Kornylak.Vera@epa.gov>, "Cortelyou-Lee, Jan" <Cortelyou-Lee.Jan@epa.gov>
Subject: Slide, talkers, Q&A for review

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Jackie Ashley - US EPA - Office of Air Quality Planning and Standards - 919-541-7664 –
ashley.jackie@epa.gov

<Qs on CPP SCOTUS for regions Feb11_230pm.docx>

<CPP Stay-slide Feb 11 2016 v2.pptx>

<Talking points for slide on CPP stay.docx>

Stay



Supreme Court Stays the Clean Power Plan

- On February 9, 2016, the Supreme Court stayed implementation of the Clean Power Plan pending judicial review. The Court's decision was not on the merits of the rule.
- EPA firmly believes the Clean Power Plan will be upheld when the merits are considered because the rule rests on strong scientific and legal foundations.
- For the states that choose to continue to work to cut carbon pollution from power plants and seek the agency's guidance and assistance, EPA will continue to provide tools and support.
- EPA will make additional information available as necessary.

Key Points

- Implementation and enforcement are on hold.
- Initial submittals not required on September 6, 2016.
- EPA will continue to work with states that want to work with us on a voluntary basis.

To: McCabe, Janet[McCabe.Janet@epa.gov]
Cc: Zenick, Elliott[Zenick.Elliott@epa.gov]; Atkinson, Emily[Atkinson.Emily@epa.gov]
From: Drinkard, Andrea
Sent: Fri 2/12/2016 3:04:23 PM
Subject: RE: READ THIS VERSION: REMINDER: EM January-February 2016 -- The Clean Power Plan

Ex. 5 - Deliberative

From: McCabe, Janet
Sent: Thursday, February 11, 2016 10:41 PM
To: Drinkard, Andrea <Drinkard.Andrea@epa.gov>
Cc: Zenick, Elliott <Zenick.Elliott@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>
Subject: RE: READ THIS VERSION: REMINDER: EM January-February 2016 -- The Clean Power Plan

Ex. 5 - Deliberative

From: Drinkard, Andrea
Sent: Thursday, February 11, 2016 4:49 PM
To: McCabe, Janet <McCabe.Janet@epa.gov>
Cc: Zenick, Elliott <Zenick.Elliott@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>
Subject: READ THIS VERSION: REMINDER: EM January-February 2016 -- The Clean Power Plan

Hi Janet,

Ex. 5 - Deliberative

Ex. 5 - Deliberative

Thanks!

From: Kinsman, John [<mailto:JKinsman@eei.org>]
Sent: Thursday, February 11, 2016 3:48 PM
To: adunn@ecos.org; Maureen.Gannon@pnmresources.com; Drinkard, Andrea
<Drinkard.Andrea@epa.gov>
Cc: Lisa Bucher <LBucher@AWMA.ORG>; jkinsman@eei.org
Subject: RE: REMINDER: EM January-February 2016 -- The Clean Power Plan
Importance: High

Alex, Andrea and Maureen –

Below please find an attempt to address the SCOTUS CPP stay in the beginning of the Introduction to the January-February issue of EM on the Clean Power Plan. Lisa thought that this might allow us to address this in one place. Lisa asks that I send this to you for your review and “to help keep things moving” toward her intended publication of the issue tomorrow. If you have any comments, please send them around “reply to all” – thanks.

John Kinsman

The Clean Power Plan ... Pause

On February 8, the Supreme Court, in a 5:4 decision, granted a stay, effective immediately, of the U.S. Environmental Protection Agency's Clean Power Plan (CPP) to limit greenhouse gas (GHGs) emission from existing power plants. The September 6, 2016 deadline to file state plans and other rule requirements are now on hold. The order does not elaborate on the Supreme Court's reasoning for the stay.

This stay extends through the litigation, *West Virginia, et al. v. EPA, et al.*, including any Supreme Court review. Oral argument in the underlying case is scheduled for June 2-3 before the D.C. Circuit Court of Appeals so a final decision by that court is expected before the end of the year. However, if the eventual D.C. Circuit decision is appealed to the Supreme Court (as is likely) and that court hears the case, a final decision is not likely before mid-2017.

As a result, the ultimate status of the CPP and GHG regulation under the Clean Air Act is unclear, and next steps will be dictated by judicial review. As expected, early reactions to the Supreme Court decision are diverse and wide-ranging.

This issue of EM, which is going to press days after the Supreme Court decision, addresses EPA's final CPP, along with the proposed federal plan and model trading rules to implement the CPP. EPA describes the CPP and the two major affected stakeholder groups—the states and the electric power sector—provide some reactions. These articles were crafted prior to the Supreme Court stay but nevertheless present the program in review and raise key issues associated with the final rule and its implementation.

<This is followed by short summaries of the three articles.>

Sr. Director, Environment

Edison Electric Institute

701 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

202/508-5711 (p)

202/255-9531 (cell)

202/508-5150 (f)

jkinsman@eei.org

To: McCabe, Janet[McCabe.Janet@epa.gov]
From: Drinkard, Andrea
Sent: Fri 2/12/2016 3:03:55 PM
Subject: RE: Fed Reg question from Politico REVIEW REQUESTED

Ex. 5 - Deliberative

From: McCabe, Janet
Sent: Thursday, February 11, 2016 11:44 PM
To: Drinkard, Andrea <Drinkard.Andrea@epa.gov>
Subject: RE: Fed Reg question from Politico REVIEW REQUESTED

I'm doing a very bad job of checking for notes during the day, which I should be doing given what's going on---so sorry.

From: Drinkard, Andrea
Sent: Thursday, February 11, 2016 10:01 AM
To: Harrison, Melissa <Harrison.Melissa@epa.gov>; Millett, John <Millett.John@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>
Cc: Zenick, Elliott <Zenick.Elliott@epa.gov>; Noonan, Jenny <Noonan.Jenny@epa.gov>
Subject: RE: Fed Reg question from Politico REVIEW REQUESTED

Adding Janet and Joe.

Ex. 5 - Attorney Client

Ex. 5 - Deliberative

Ex. 5 - Deliberative

Ex. 5 - Deliberative

From: Harrison, Melissa

Sent: Thursday, February 11, 2016 9:30 AM

To: Millett, John <Millett.John@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>

Subject: Fwd: Fed Reg question

(b) (5)

Melissa J. Harrison

Press Secretary

U.S. Environmental Protection Agency

Office: (202) 564-8421

Mobile: (202) 697-0208

Harrison.Melissa@epa.gov

Begin forwarded message:

From: Alex Guillen <aguillen@politico.com>

Date: February 11, 2016 at 9:28:07 AM EST

To: "Harrison.Melissa (Harrison.Melissa@epa.gov)" <Harrison.Melissa@epa.gov>, "Allen, Laura" <Allen.Laura@epa.gov>

Subject: Fed Reg question

Hey guys, when a rule like CPP is stayed, do you have to run a Federal Register notice or something so there's formal notice to stakeholders? When will that happen if so?

Thanks,

Alex Guillén

Energy Reporter

POLITICO *Pro*

(o) 703.341.4619 | (c) 571.839.6243

aguillen@politico.com | @alexcguillen

To: Schmidt, Lorie[Schmidt.Lorie@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]
From: Drinkard, Andrea
Sent: Fri 2/12/2016 2:55:19 PM
Subject: RE: FOR REVIEW: Slide, talkers, Q&A for review

Ex. 5 - Attorney Client

From: Schmidt, Lorie
Sent: Friday, February 12, 2016 9:54 AM
To: McCabe, Janet <McCabe.Janet@epa.gov>
Cc: Drinkard, Andrea <Drinkard.Andrea@epa.gov>
Subject: Re: FOR REVIEW: Slide, talkers, Q&A for review

Ex. 5 - Attorney Client

Lorie

Lorie J. Schmidt

Associate General Counsel for Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

Sent from my iPhone

On Feb 12, 2016, at 7:35 AM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

Ex. 5 - Attorney Client

Sent from my iPhone

On Feb 12, 2016, at 9:32 AM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:

I'll make sure that's clear. Thanks for flagging.

Andrea Drinkard

(o) 202.564.1601

(c) 202.236.7765

On Feb 12, 2016, at 9:14 AM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

Ex. 5 - Deliberative

Ex. 5 - Deliberative

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From: "Ashley, Jackie" <Ashley.Jackie@epa.gov>
Date: February 11, 2016 at 4:37:41 PM EST
To: "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>, "Noonan, Jenny" <Noonan.Jenny@epa.gov>
Cc: "Kornylak, Vera S." <Kornylak.Vera@epa.gov>, "Cortelyou-Lee, Jan" <Cortelyou-Lee.Jan@epa.gov>
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Jackie Ashley - US EPA - Office of Air Quality Planning and Standards - 919-541-7664 – ashley.jackie@epa.gov

<Qs on CPP SCOTUS for regions Feb11_230pm.docx>

<CPP Stay-slide Feb 11 2016 v2.pptx>

<Talking points for slide on CPP stay.docx>

To: McCabe, Janet[McCabe.Janet@epa.gov]
Cc: Drinkard, Andrea[Drinkard.Andrea@epa.gov]
From: Schmidt, Lorie
Sent: Fri 2/12/2016 2:53:32 PM
Subject: Re: FOR REVIEW: Slide, talkers, Q&A for review

Ex. 5 - Attorney Client

Lorie J. Schmidt
Associate General Counsel for Air and Radiation
Office of General Counsel
US Environmental Protection Agency
(202)564-1681

Sent from my iPhone

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(c) 202.236.7765

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Date: February 11, 2016 at 4:37:41 PM EST
To: "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>, "Noonan, Jenny" <Noonan.Jenny@epa.gov>
Cc: "Kornylak, Vera S." <Kornylak.Vera@epa.gov>, "Cortelyou-Lee, Jan" <Cortelyou-Lee.Jan@epa.gov>
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To: McCabe, Janet[McCabe.Janet@epa.gov]
Cc: Goffman, Joseph[Goffman.Joseph@epa.gov]; Millett, John[Millett.John@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Ashley, Jackie[Ashley.Jackie@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]
From: Drinkard, Andrea
Sent: Fri 2/12/2016 2:32:20 PM
Subject: Re: FOR REVIEW: Slide, talkers, Q&A for review

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<Talking points for slide on CPP stay.docx>

To: McCabe, Janet[McCabe.Janet@epa.gov]
Cc: Drinkard, Andrea[Drinkard.Andrea@epa.gov]
From: Millett, John
Sent: Fri 2/12/2016 12:32:29 PM
Subject: Re: Was there a WSJ editorial on the stay?

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By

DAVID B. RIVKIN JR. and

ANDREW M. GROSSMAN

Feb. 10, 2016 6:58 p.m. ET

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John Millett
202.510.1822

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To: McCabe, Janet[McCabe.Janet@epa.gov]
Cc: Drinkard, Andrea[Drinkard.Andrea@epa.gov]
From: Millett, John
Sent: Fri 2/12/2016 12:24:45 PM
Subject: Re: Was there a WSJ editorial on the stay?

Let me check. I know Amy harder wrote about the stay.

John Millett
202.510.1822

On Feb 11, 2016, at 11:54 PM, McCabe, Janet <McCabe.Janet@epa.gov> wrote: